



# BULKY DOCUMENTS

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JUDGEMENT

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Posted by  Apr 10, 2012

## My Top 5 Pre-Meet songs

Through the years I have gotten the question, "What kind of music do you listen to before your races?" To tell you the truth, I don't listen to music before my races. I like going into the ready room, relaxing, thinking to myself, and talking to people if they aren't listening to music. I like being able to walk out to the music being played on speakers and hear the crowd...

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## My Top 5 Pre-Meet songs

Posted by [Ricky](#) on 4-10-12



## Sitting and waiting my turn

Posted by [Ricky](#) on 4-3-12



## Austin Grand Prix Roundup

Posted by [Ricky](#) on 9-15-10



## **2011 Winter Nationals**

Posted by [Ricky](#) on 9-15-10

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- Thanks!! RT [@DianaRuggWCNC](#): But I think hometown boy [@RickyBerens](#) is 1st seed for men's 200 free tonight at [@UltraSwim2012](#)! [1 hr ago](#)
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#### **Charlotte swimmer sets sights on more Olympic gold**

Posted by [Ricky](#) on May 10, 2012 in [Past News](#) | [0 comments](#)

by ANN SHERIDAN / NewsChannel 36 Staff CHARLOTTE, N.C. — It's hard to take your eyes off Ricky Berens. The Charlotte native with a movie star smile, won an Olympic gold medal in Beijing, has a...

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#### **Charlotte swimmers hope to make Olympic splash**

Posted by [Ricky](#) on May 6, 2012 in [Past News](#) | [0 comments](#)

By Scott Fowler sfowler@charlotteobserver.com If Charlotte is going to make a big splash at the 2012 Summer Olympics, it will come in the sport of swimming. More than 30 swimmers with Charlotte connections have...

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#### **For Lower-Profile Olympians, Social Media a Key to Branding Success**

Posted by [Ricky](#) on May 6, 2012 in [Past News](#) | [0 comments](#)

From Mashable.com by Sam Laird Ricky Berens is a world-class athlete, but...

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### **Ricky chosen to be part of BMW Pro Performance Team**

Posted by [Ricky](#) on Feb 27, 2012 in [Past News](#) | [0 comments](#)

Woodcliff Lake, NJ – July 27, 2011... In celebration of the one-year...

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### **DETAILS Magazine/ CASIO ad**

Posted by [Ricky](#) on Feb 24, 2012 in [Past News](#) | [0 comments](#)

Ricky was featured in the December issue of DETAILS Magazine, modeling...

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## EXHIBIT 7



Monday, September 27, 1999



Courtesy of Baywatch Hawaii

The new uniform is yellow and has four-way stretch, like the red swimsuits worn in past seasons, for a snug fit that accommodates movement.

You, too,  
can suit up in  
'Baywatch'  
beach garb

## **Tyr Sport saw business soar thanks to the series, and another small company is hoping for the same response to its Hawaii-themed wear**

By Tim Ryan  
Star-Bulletin

▲▲▲

ONE of the most striking montages in television may be the opening of "Baywatch" when female lifeguards run down a Southern California beach in form-fitting red Lycra swimsuits.

And if you say you haven't at least glanced at the slow-motion sequence of Pamela Anderson Lee in full flight, well, maybe you're not being truthful.

Now that "Baywatch" has relocated to Hawaii, those red suits made by Tyr Sport of Huntington Beach, Calif., are being replaced by yellow ones, although the strategic construction and style remain the same. There's also a new "Baywatch Hawaii" lifeguard patch on the left hip of the suit and higher up is the TYR name. (Tyr was the god of war in Norse mythology.)

Swimsuits once made specifically for "Baywatch" are now available to consumers. Tyr products are available at Sports Authority, while Mysterioso suits are available at local surf shops. Women's suits sell for \$50 to \$60; the men's lifeguard traditional red shorts are \$34.



Courtesy of Mysterioso  
Rash guards by Mysterioso come in wild patterns

and have SPF 25 protection.

Association with show has catapulted the company into one of the most recognized athletic-wear manufacturers in the world, according to Tyr vice president of marketing David Rosen.

For a 10-year period, Tyr sales grew 20 to 25 percent annually, he said.

"The exposure has been phenomenal for us," added Chris Wilmoth, Tyr spokesman. "Because of 'Baywatch' our suits have been on the covers of Playboy, Health and Fitness, People, everything."

In Tyr's early years the company sought out product placement in films and television. One day Bonann, himself a lifeguard, called Tyr looking for sports athletic swimwear for his new show.

"We didn't pay much attention to what the story was about; we just needed publicity," Rosen said.

Then when "Baywatch" began using opening montages two years into the show with female lifeguards running down the beach, Tyr product took off, Rosen said.

"The more exotic montages helped," he said. "We were starting to sell product in countries where no one had heard of us before."

And that's what Mysterioso's Stevie G hopes happens with his 2-year-old Malibu company, which makes the most colorful and health-conscious rash guards available today. Mysterioso is the original SPF 25 water and board wear apparel company that provides "validated" sun protection on its 5.5-ounce, multi-stretch poly/Lycra material.



Courtesy of Mysterioso

Stevie G. of Mysterioso is hoping exposure of his product line on "Baywatch Hawaii" will help his company take off. Items include tops and shorts for women in colorful prints with several patterns to choose from, like butterflies, leopard prints and tropical flowers.

Mysterioso's rash guards come in some of the wildest patterns you'll see on land or water: wavy water prints, colorful butterflies, leopard, tropical flowers. That's what caught the eye of producer Bonann, who called G earlier this year to say he wanted rash guards and shorts, as well as new designs and colors, for "Baywatch."

Overnight, G found a yellow Lycra material and a batch of red hibiscus designs that he would combine. The "Baywatch Hawaii" men and women lifeguards are wearing lots of Mysterioso product: women in short- and long-sleeved yellow tops with red hibiscus flowers and tight shorts. The men wear various wild-designed tops.

"It's a perfect match of form, function and art," Bonann said.

Mysterioso has given "Baywatch Hawaii" some 800 product pieces, worth about \$10,000, G said.

"The red suits will still be involved in the show this season but not as much as the yellow ones," said Wilmoth, adding the new yellow suit, like its predecessor, has four-way

Tyr makes nearly 300 custom suits each season, valued "in the six figures," according to Rosen. Each star receives about two dozen suits.

Tyr, created in 1985, manufactures, markets and distributes competitive and active swim wear, triathlon apparel, beach volleyball wear and accessories. The company has been associated with "Baywatch" since the show started, Wilmoth said.

There are three style of swimsuits used on the show: the Lead Back, a Bonann favorite, featuring a high neck and high cut on the leg; the standard one-piece Maxback; and the Beach Tank, the most popular suit.



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### Black Baywatch Swimsuit Pamela Anderson aka CJ Parker - Angelfir...

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This photo album contains pictures of the Black Baywatch TYR swimsuit screen worn and signed by Pamela Anderson aka CJ Parker. This is the only BLACK ...

### Black Baywatch Swimsuit Pamela Anderson aka CJ Parker - Angelfir...

[www.angelfire.com/planet/.../black\\_baywatch.../index.album?...](http://www.angelfire.com/planet/.../black_baywatch.../index.album?...)

This photo album contains pictures of the Black Baywatch TYR swimsuit screen worn and signed by Pamela Anderson aka CJ Parker. This is the only BLACK ...

### PAMELA ANDERSON'S BLACK BAYWATCH SWIMSUIT

[www.angelfire.com/planet/anderson-swimsuit/](http://www.angelfire.com/planet/anderson-swimsuit/)

pamela anderson lee one of a kind unique black baywatch television tv tyr worn and signed with coa for sale.

### TYR at SwimOutlet.com - The web's most popular swim shop!

[www.swimoutlet.com/TYR/](http://www.swimoutlet.com/TYR/)

TYR was also responsible for the famous red bathing suits featured on the hit television series "Baywatch." TYR consults with current and former athletes when ...

### Our Company: TYR

[www.tyr.com/tyr.php](http://www.tyr.com/tyr.php)

TYR engineers technical apparel and equipment for swimmers and triathletes. Named for "TYR", the Norse god of warriors, we're a company started by athletes ...

### TYR-Baywatch | Facebook

[www.facebook.com/media/set/?set=a.155509287876756.34437...](http://www.facebook.com/media/set/?set=a.155509287876756.34437...)

Facebook is a social utility that connects people with friends and others who work, study and live around them. People use Facebook to keep up with friends, ...

### Honolulu Star-Bulletin Features

[archives.starbulletin.com/1999/09/27/features/story2.html](http://archives.starbulletin.com/1999/09/27/features/story2.html)

Sep 27, 1999 - Now that "Baywatch" has relocated to Hawaii, those red suits made by Tyr Sport of Huntington Beach, Calif., are being replaced by yellow ones, ...

### Tags: Baywatch - Prop Archives : original movie props, screen used ...

[www.proparchives.com/tags/baywatch](http://www.proparchives.com/tags/baywatch)

Dec 14, 2006 - David Hasselhoff signed screen-worn swimsuit trunks from Baywatch. (NBC-TV, 1989-2001) These signature screen-worn bright red TYR...

### TYR at Beachwear Unlimited

[shopbeachwear.com/tyr.html](http://shopbeachwear.com/tyr.html)

TYR has developed a loyal following and a reputation for quality across its wide ... for the famous red bathing suits featured on the hit television series Baywatch.

### tyr .BAYWATCH Costume

[baywatchcostume.org/tag/tyr/](http://baywatchcostume.org/tag/tyr/)

Dec 1, 2011 - Bay Watch Theme Tune · Baywatch Cast · BAYWATCH Costume · Baywatch Girls · Carmen Electra · Pamela ... Tyr Anasazi Brandy Ledford...

Ads related to baywatch tyr

Why these ads?

### TYR: Official Site

[www.tyr.com/](http://www.tyr.com/)

Shop TYR.com and Receive Free Shipping on all orders over \$75!

Men's - Women's - Kid's - Equipment

### TYR at SwimOutlet.com

[www.swimoutlet.com/TYR-](http://www.swimoutlet.com/TYR-)

3,172 seller reviews

Largest Selection of TYR Items! Free Shipping. Low Price Guarantee.

Women's Competition Swimwear - Men's Competition Swimwear - Swim Goggles

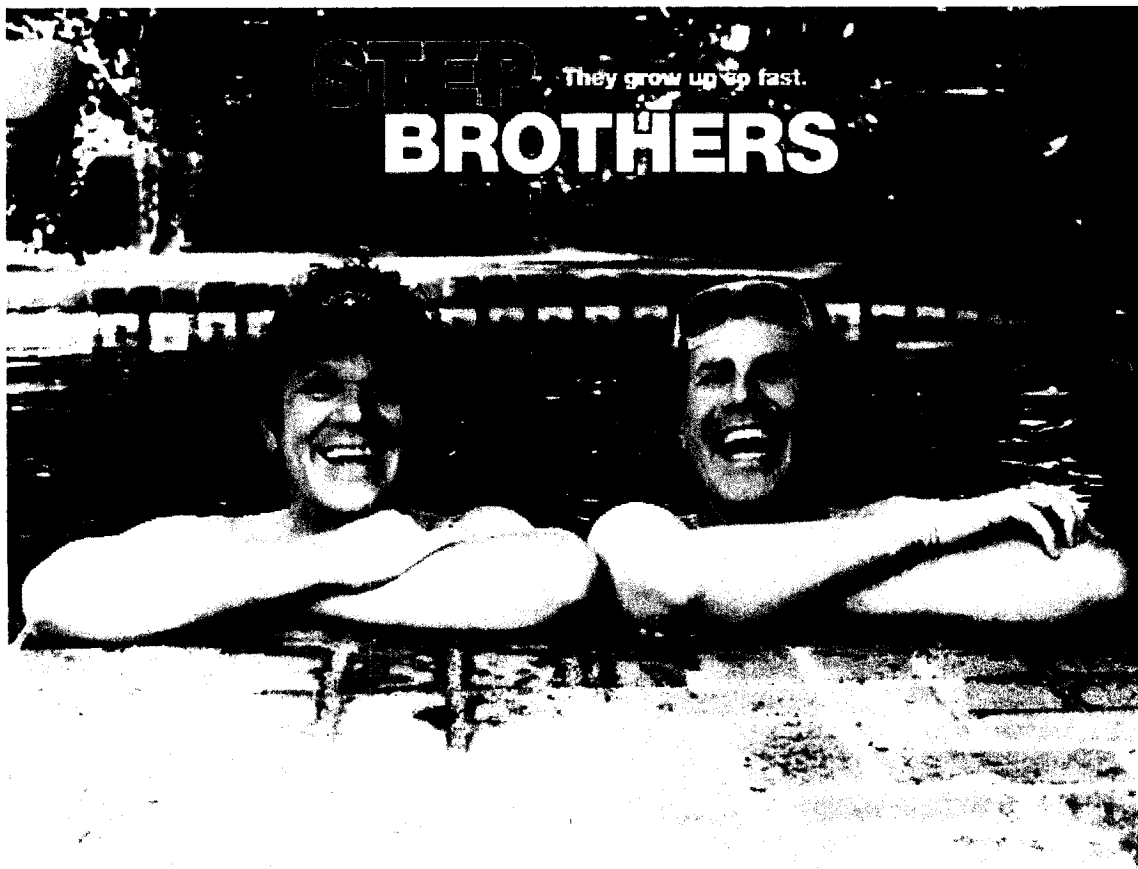


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## EXHIBIT 8



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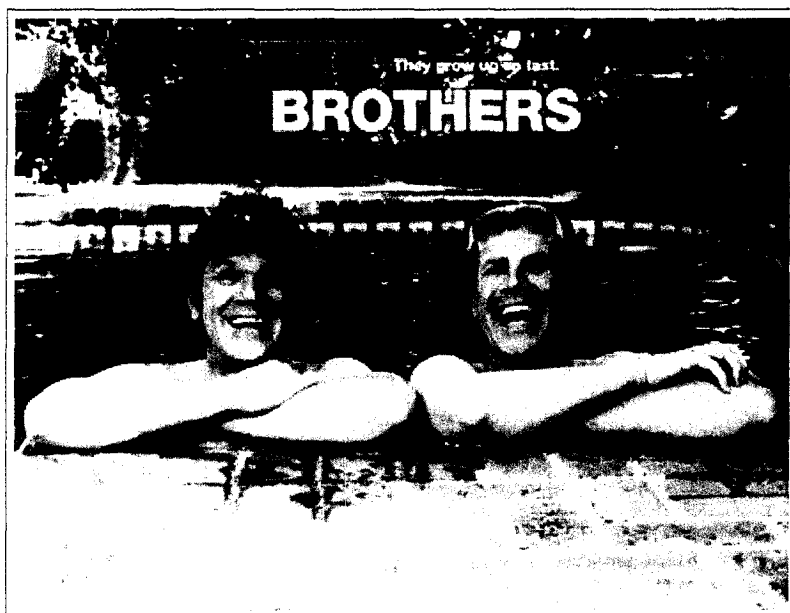


## EMBRACE THE TYR COMMUNITY

What's going at TYR? This is behind the scenes of TYR for our internal folk. Click on pictures to enlarge and the videos to play. We look forward to keeping you in the know during this Olympic season.

SEPTEMBER 11, 2008

## STEBROTHERS: TYR ON THE BIG SCREEN



Crazy, wild and hilarious!

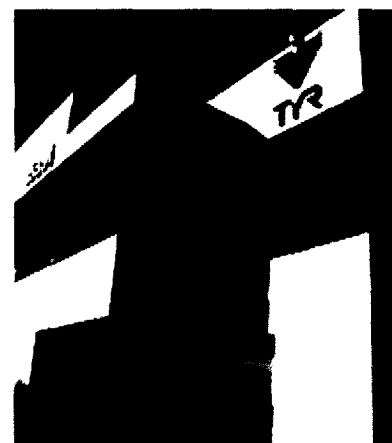
Yes, that's TYR Guard Visor and Mask.

Click to see movie details...

<http://www.stepbrothers-movie.com/>

POSTED BY PR BUZZ AT THURSDAY, SEPTEMBER 11, 2008 0 COMMENTS

## TYR SPORT, INC.



## PREVIOUS POSTS

► 2009 (44)

▼ 2008 (84)

► November (7)

► October (22)

▼ September (12)

Stepbrothers: TYR on the Big Screen

Stepbrothers: TYR on the Big Screen

Olympic Medalist on Fox Las Vegas

## STEPBROTHERS: TYR ON THE BIG SCREEN



In theaters now, Sony Pictures present **Stepbrothers** which features TYR apparel and accessories. The dynamic duo, Will Farrell and John C. Reilly wear TYR fins, goggles and racers.

POSTED BY PR BUZZ AT THURSDAY, SEPTEMBER 11, 2008 0 COMMENTS

SEPTEMBER 10, 2008

## OLYMPIC MEDALIST ON FOX LAS VEGAS

Olympic Medalist on Fox Las Vegas

Olympic Medalist on Fox Las Vegas

ASCA 2008

ASCA 2008

ASCA 2008

ASCA 2008

ASCA 2008

ASCA 2008

ASCA 2008

► August (24)

► July (9)

► April (3)

► March (4)

► February (3)

► 2007 (43)

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### LINKS & REFERENCES

TYR Sport Inc.

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Eric offered the following healthy lifestyle tips:

1. Exercise with a purpose
2. Try new workouts
3. Get outdoors
4. Have a workout partner
5. Listen to music

POSTED BY PR BUZZ AT FRIDAY, NOVEMBER 21, 2008 0 COMMENTS

## THE PRICE IS RIGHT



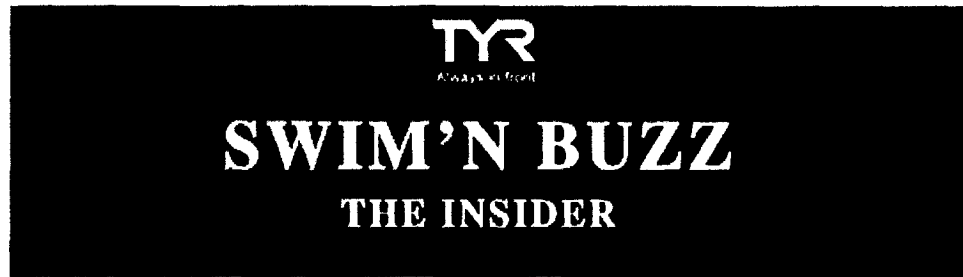
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## WORLD CHAMPION SIGNS WITH TYR

## EXHIBIT 9



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## EMBRACE THE TYR COMMUNITY

What's going at TYR? This is behind the scenes of TYR for our internal folk. Click on pictures to enlarge and the videos to play. We look forward to keeping you in the know during this Olympic season.

JUNE 22, 2009

## THE TODAY SHOW - CHANCE FOR CHILDREN

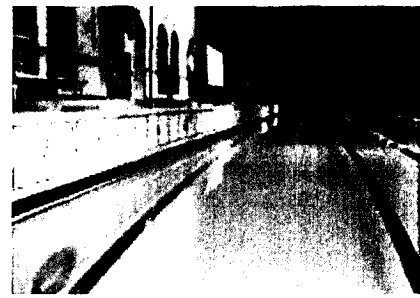
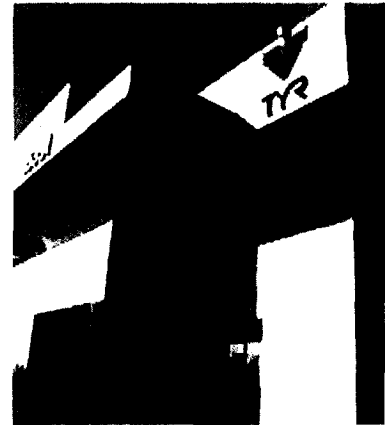


The Today Show's Al Roker spends time with youth in Pacific Palisades. TYR donated warm-ups, caps, goggles and swimsuits to make camp an experience the kids will never forget.

POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

## THE TODAY SHOW - CHANCE FOR CHILDREN

## TYR SPORT, INC.



## PREVIOUS POSTS

▼ 2009 (44)

▼ June (10)

The Today Show - Chance for Children

The Today Show - Chance for Children

The Today Show - Chance for Children

The Today Show - Chance for Children



POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

## THE TODAY SHOW - CHANCE FOR CHILDREN



Women's Basketball Star Lisa Leslie with Al Roker on set of the Today Show in Pacific Palisades.

POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

The Today Show - Chance for Children

The Today Show - Chance for Children

The Today Show - Chance for Children

The Today Show - Chance for Children

The Today Show - Chance for Children

The Today Show - Chance for Children

► May (11)

► April (17)

► March (6)

► 2008 (84)

► 2007 (43)

### LINKS & REFERENCES

TYR Sport Inc.

## THE TODAY SHOW - CHANCE FOR CHILDREN



Al Roker with members of Baywatch.

POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

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## THE TODAY SHOW - CHANCE FOR CHILDREN



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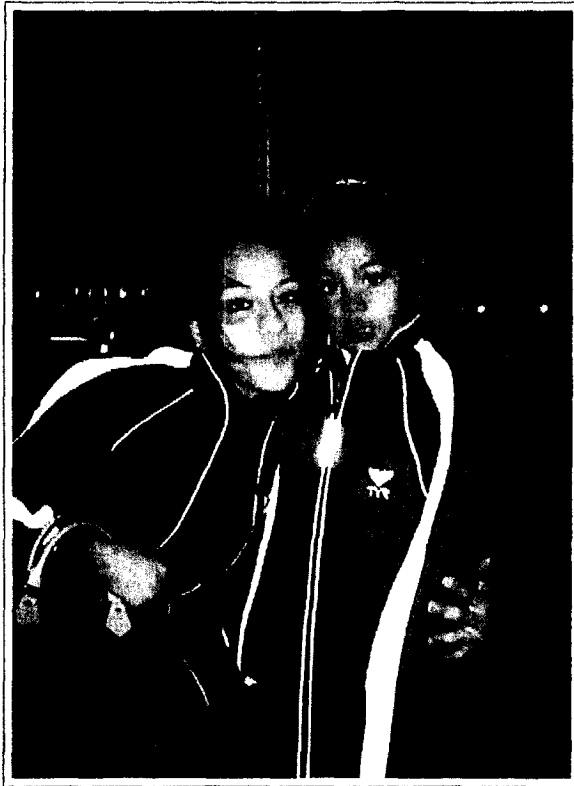
## THE TODAY SHOW - CHANCE FOR CHILDREN



POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

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## THE TODAY SHOW - CHANCE FOR CHILDREN



POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

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## THE TODAY SHOW - CHANCE FOR CHILDREN



Chance for Children receives the Lend a Hand award. Kids are on set at the Today Show. ect>

POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

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## THE TODAY SHOW - CHANCE FOR CHILDREN



After providing the famous red Baywatch swimsuits, TYR partnered with members of the show to support its Chance for Children foundation. The non-profit organization teaches inner-

city kids to swim and surf in Malibu. The Today Show honored Chance for Children with the Lend a Hand award. TYR was among the businesses that contributed over \$420,000 to help provide the opportunity for kids to go to camp and learn to swim and surf.

POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

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## **THE TODAY SHOW - CHANCE FOR CHILDREN**



POSTED BY PR BUZZ AT MONDAY, JUNE 22, 2009 0 COMMENTS

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MAY 22, 2009

## **MINNESOTA JUNIOR ELITE TRIATHLON TEAM JOINS TYR**



USA exclusive Tracer Rise Full Body appeared on The Today Show on August 13.

This segment ran during the most watched Olympic morning show and featured on The Today Show website as a top story.

POSTED BY PR BUZZ AT THURSDAY, AUGUST 14, 2008 0 COMMENTS

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## THE TODAY SHOW - TRACER RISE



Men's Health Magazine worked with TYR to get a Tracer Rise



within hours of the Today Show airing this piece. Matt Zimmer in Beijing scrambled to get to the Water Cube in time for the messenger to pick up the elite swimsuit technology.

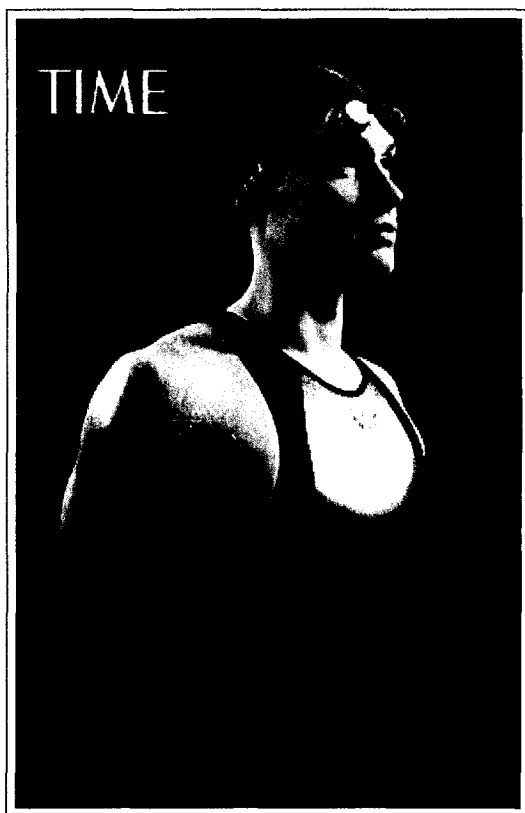
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## TIME MAGAZINE - 4 MILLION READERS



*Time Magazine*

*High-Tech Swimsuits: Winning Medals Too*

*August 13, 2008*

Swimming in the Tracer I noticed the compression in my legs was greater than with any other suit I've worn. It made me feel explosive and helped me kick effectively. The suit felt light, like I was swimming in saltwater, and although it wasn't the most comfortable thing in the world — it took 20 minutes to get into

## EXHIBIT 10



2-Time World Champion Chrissie Wellington appears on the December cover of Competitor Magazine.

POSTED BY PR BUZZ AT FRIDAY, NOVEMBER 21, 2008 0 COMMENTS

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## CNN FIT NATION WITH SHANTEAU



Eric Shanteau was an expert on CNN Fit Nation with Dr. Sanjay Gupta. Other celebrities included TV host Rachel Ray and Jillian Michaels of the Biggest Loser. The episode will run in December. More details to follow.

Eric offered the following healthy lifestyle tips:

1. Exercise with a purpose
2. Try new workouts
3. Get outdoors
4. Have a workout partner
5. Listen to music

POSTED BY PR BUZZ AT FRIDAY, NOVEMBER 21, 2008 0 COMMENTS

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## THE PRICE IS RIGHT



Mark your calendars for January 29th! You can watch Micha Burden and Pat Cary on the Price is Right wearing TYR swimwear.

POSTED BY PR BUZZ AT FRIDAY, NOVEMBER 21, 2008 0 COMMENTS

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## WORLD CHAMPION SIGNS WITH TYR

## EXHIBIT 11

within hours of the Today Show airing this piece. Matt Zimmer in Beijing scrambled to get to the Water Cube in time for the messenger to pick up the elite swimsuit technology.

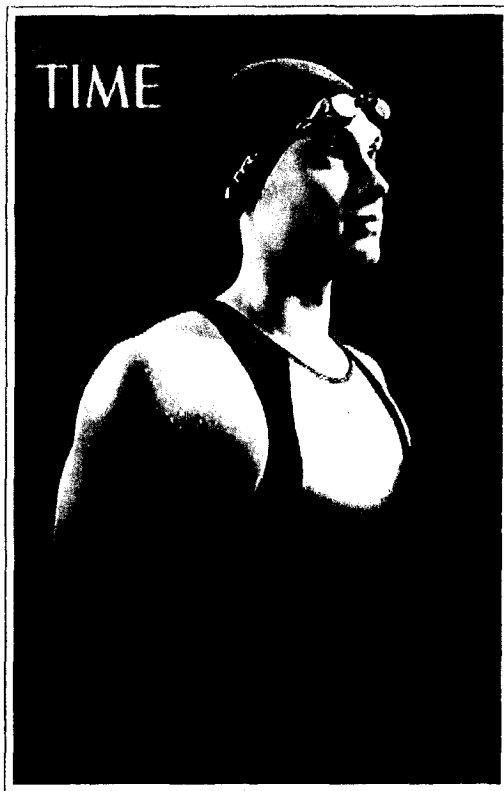
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POSTED BY PR BUZZ AT THURSDAY, AUGUST 14, 2008 0 COMMENTS

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## TIME MAGAZINE - 4 MILLION READERS



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## EXHIBIT 12

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## EMBRACE THE TYR COMMUNITY

What's going at TYR? This is behind the scenes of TYR for our internal folk. Click on pictures to enlarge and the videos to play. We look forward to keeping you in the know during this Olympic season.

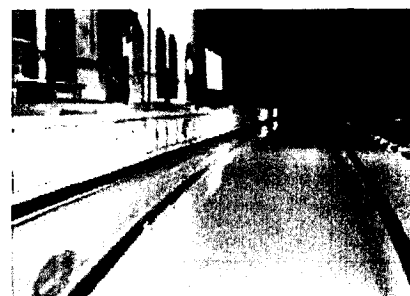
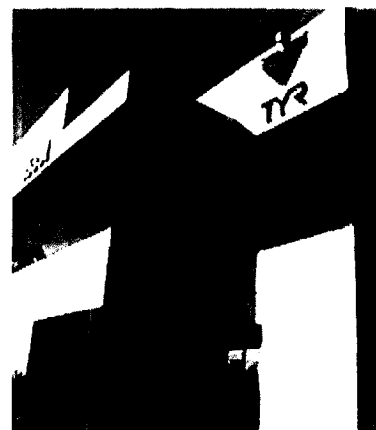
JULY 8, 2008

## OLYMPIC TRIALS: OLYMPIAN ERIC SHANTEAU



Olympian Eric Shanteau's solid performance and drive secured him a spot on the 2008 U.S. Olympic Team in the 200m Breaststroke. At the last Olympic Trials, Eric came in 3rd in two

## TYR SPORT, INC.



## PREVIOUS POSTS

► 2009 (44)

▼ 2008 (84)

► November (7)

► October (22)

► September (12)

► August (24)

▼ July (9)

Olympic Trials: Olympian  
Eric Shanteau



events. Now he did it! We know his hard work and determination paid off.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

## OLYMPIC TRIALS: NEW OLYMPIAN MATT GREVERS



Matt Grevers discovers he reached his lifelong goal to be an Olympian. Way to go Matt! We are so proud of you!

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

## OLYMPIC TRIALS: MATT GREVERS

Olympic Trials: New Olympian Matt Grevers

Olympic Trials: Matt Grevers

Olympic Trials: Mark Warkentin

Olympic Trials: Queen Mary in Tracer Rise

Olympic Trials: Go Queen Mary!

Olympic Trials: Associated Press

Olympic Trials: Swimming into the Lobby

Olympic Trials: Full Size Banners

▷ April (3)

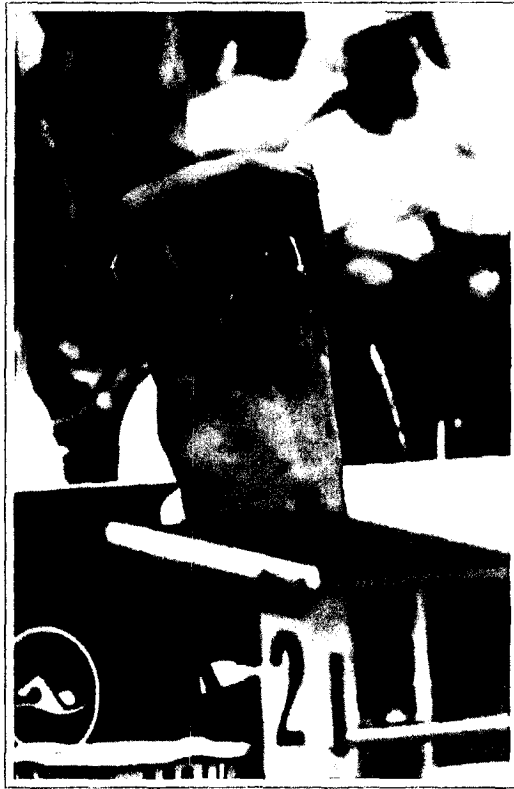
▷ March (4)

▷ February (3)

▷ 2007 (43)

### LINKS & REFERENCES

TYR Sport Inc.



Matt Grevers prepares for the most important race of his life. Under the radar, Matt earned a spot beating some of the fastest backstrokers in the sport. That's our guy!

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

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## OLYMPIC TRIALS: MARK WARKENTIN

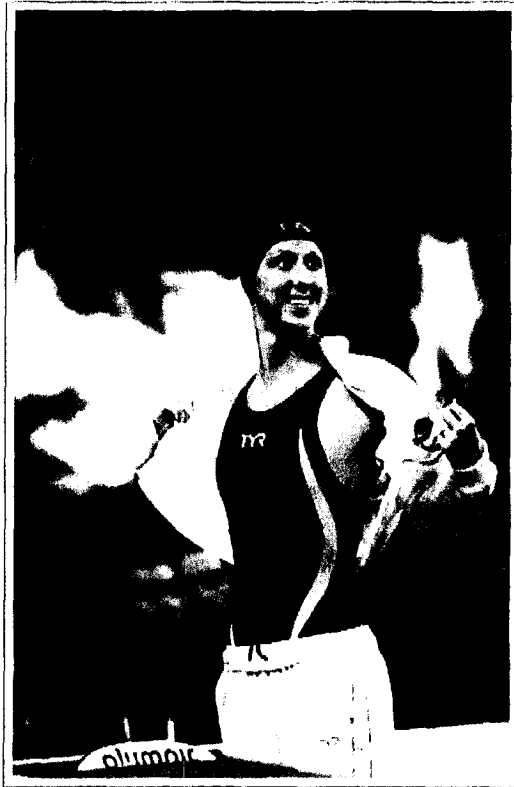


Olympian Mark Warkentin was honored by Swimming World TV with a special plaque. Mark is at the Olympic team training camp with team members in Palo Alto for the next two weeks.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

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## OLYMPIC TRIALS: QUEEN MARY IN TRACER RISE



There's no doubt when you watch Queen Mary that she puts a smile on your face. Her energy spreads across the pool deck. She was at the Olympic Trials to enjoy the moment and swim her heart out.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

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## OLYMPIC TRIALS: GO QUEEN MARY!



Mary DeScenza had a full cheering squad with Mr. DeScenza, Mrs. DeScenza and Katie DeScenza.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

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## OLYMPIC TRIALS: ASSOCIATED PRESS



World Record Holder Doug Van Wie took time from his busy swimming schedule to chat with the Associated Press TV about Tracer Rise. The black and gold looked incredible.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

## OLYMPIC TRIALS: SWIMMING INTO THE LOBBY

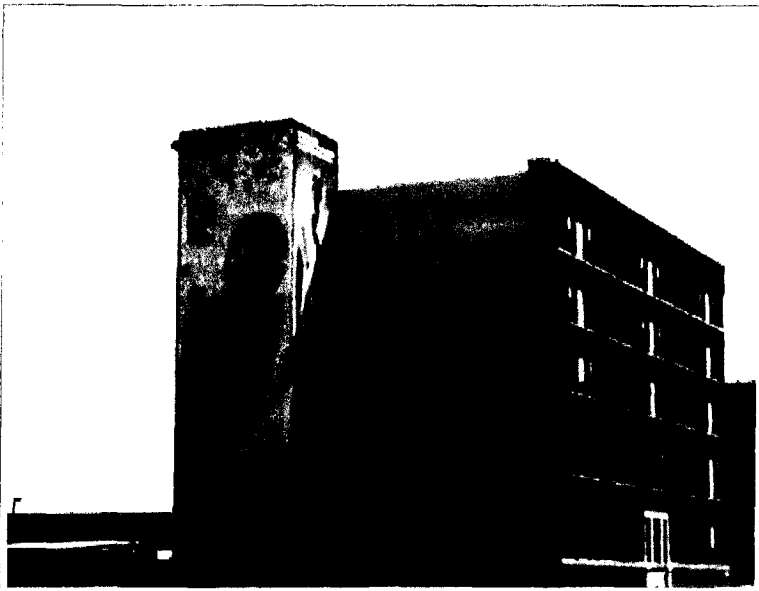


Filled with swimmers, the Hilton Garden Inn in Omaha was decked out in full TYR down to the hotel key cards and elevator pictures.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

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## OLYMPIC TRIALS: FULL SIZE BANNERS



60 foot banners of Olympians Matt Grevers and Amanda Weir captured the eyes of anyone passing by.

POSTED BY PR BUZZ AT TUESDAY, JULY 08, 2008 0 COMMENTS

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## EXHIBIT 13

They were gracious enough to slip away from training for the Los Angeles Triathlon. The TYR Tri elite wore our 2008 Triathlon Collection. They loved the new Triathlon line especially the fit and the new colors.

POSTED BY PR BUZZ AT THURSDAY, OCTOBER 04, 2007 0 COMMENTS

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OCTOBER 3, 2007

## **INTERBIKE ATHLETE SIGNING - TJ TOLLAKSON**



TJ will be competing at his first Ironman World Championship in just 2 weeks. He's one of the up and coming triathletes in the sport of triathlon. At the Florida 70.3 Ironman, he set the race's bike record and finished as the top American.

POSTED BY PR BUZZ AT WEDNESDAY, OCTOBER 03, 2007 0 COMMENTS

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## **INTERBIKE ATHLETE SIGNING - BECKY LAVELLE**





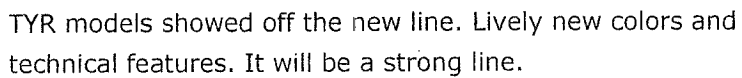
Becky Lavelle joined the Interbike team for a day of autograph signings. She is a great sport. At times, there were some interesting fans requesting pictures with her.

To our surprise, a few days after she left Las Vegas, she competed at the Tinley's Triathlon. She rocked it! She won the event while our male triathlete Greg Remaly won the men's event. This lines Becky up for a strong chance to win the overall Tri Cal Series. She also won Wildflower and Pacific Grove Triathlon. Last year, she won the Tri Cal Series.

POSTED BY PR BUZZ AT WEDNESDAY, OCTOBER 03, 2007 0 COMMENTS

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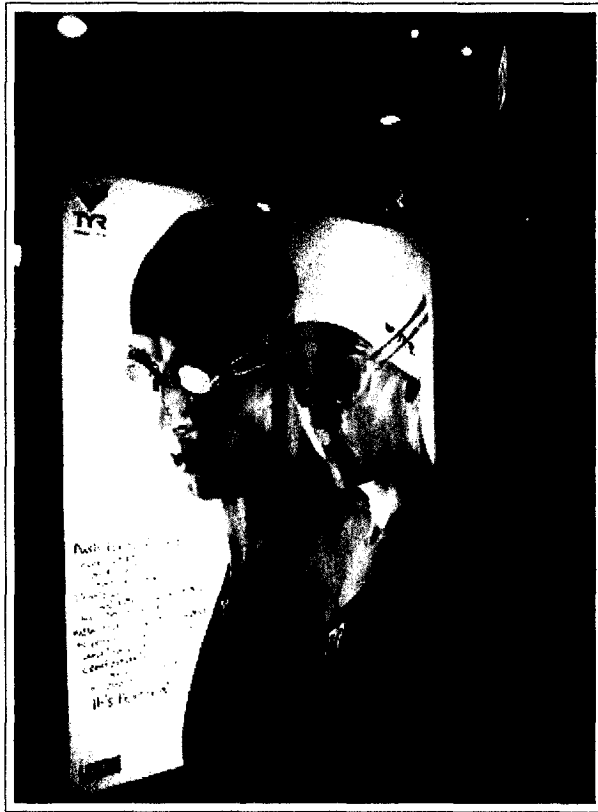
## INTERBIKE - MODELS



POSTED BY PR BUZZ AT WEDNESDAY, OCTOBER 03, 2007 0 COMMENTS

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## INTERBIKE - BOOTH



TYR's booth at Interbike was impressive. We had a great location right near the front of the show. You can get lost at the show, since it's so big. Luckily, TYR had a banner hanging from the ceiling to easily locate the booth.

POSTED BY PR BUZZ AT WEDNESDAY, OCTOBER 03, 2007 0 COMMENTS

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NSMB.com > Gear > Interbike show shots - Let cheese reign

## Interbike show shots - Let cheese reign

### **Encore, Encore!**

Words by Ed Snyder. Photos by David Ferguson.

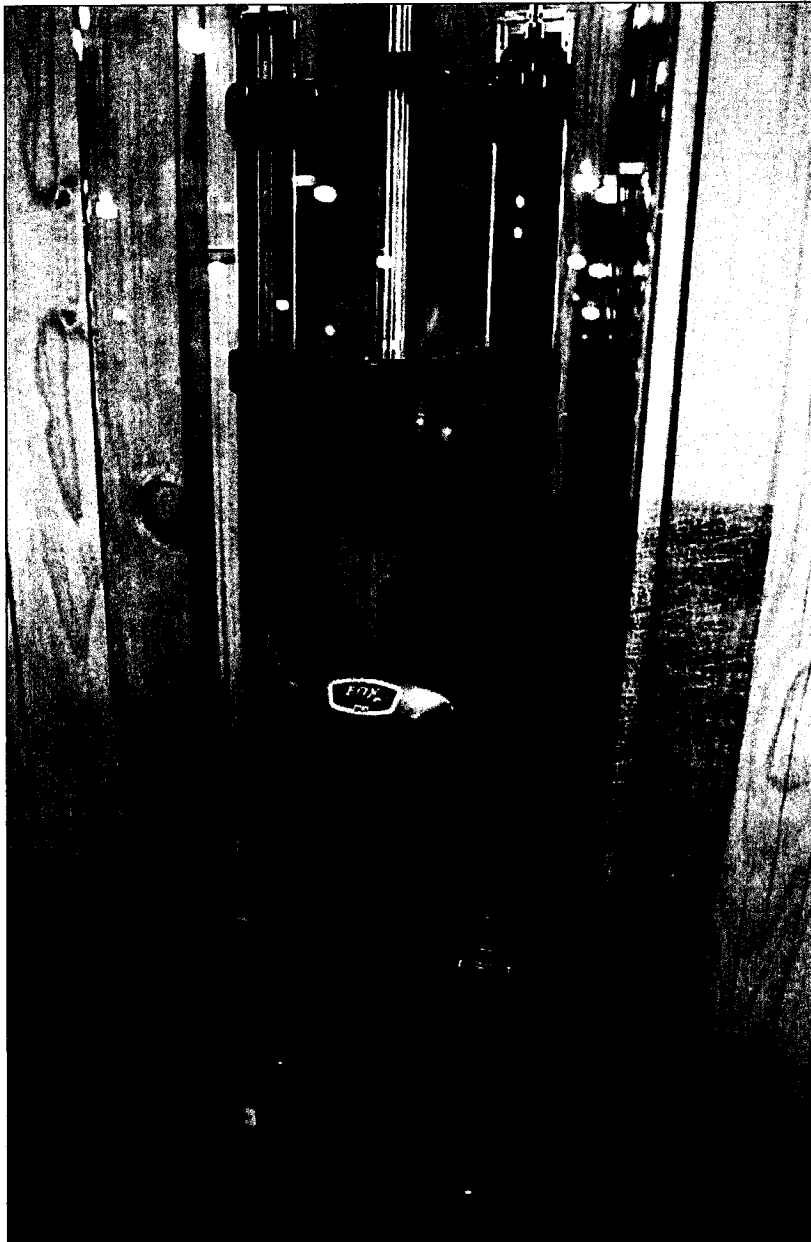
Date: 2007-02-15

Interbike is good for a lot of things. You run in to tons of people you haven't seen in a while, learn about what's new and great and in the cycling world, have random celebrity sightings and see just how high you can push the oxygen level in your body before you spontaneously combust. While all of that fun stuff is happening your attention gets dragged away from your mission by random stuff you would only see at a bike industry trade show. Lots of people are trying to grab your attention and they have some creative and some not so creative (but just as effective) ways to do it.

What follows is a slice of Interbike life that happens in between all the things you are supposed to be doing. Stuart coined the term "Show Shots" and I like it, so that's our story and we're sticking to it. What happens in Vegas doesn't necessarily have to stay in Vegas anymore. We've got the internet...



[www.TYR.com](http://www.TYR.com)  
Ads by Google



The army of tiny saw people were here too.

---

Something about Vegas compels people to take perfectly good bicycle parts and hack them to bits. Stu mentioned an army of tiny people with saws and despite not seeing any of the lumberjack leprechauns in action, evidence of their presence was everywhere.

---



A host of grocery-getters at the ready.

It's not just the high-zoot bikes that make the show in Vegas. All kinds of manufacturers bring all kinds of wheeled beasts. We saw a bike with a hinge on the seat tube that allowed you to kick out the back end of the bike and still continue to ride in a straight line, bikes to carry surfboards, three wheeled high performance carts from England, a bike powered by both pedals and by rocking the bars back and forth (via a separate chain drive), and the list goes on. If it's human-powered and rolls you'll probably see one at Interbike.



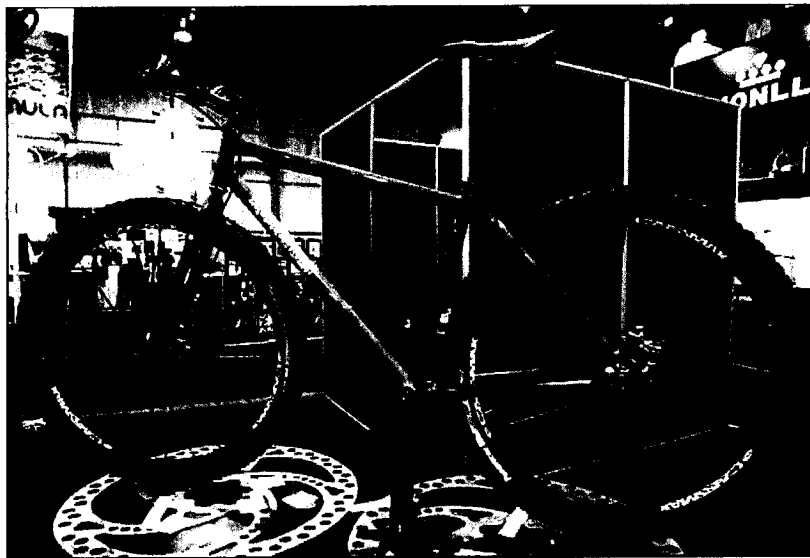
Ferguson showing off that irresistible photographer magnetism with the Tyr girl. Don't they make a cute couple?

David Ferguson is a force of nature. Not only does he flood this site with high quality images of everything from Crankworx to Interbike, he has charms that go unmeasured by most scales. Either that or we toss him like bait at every booth babe we see and snap a pic before they realize what's happening. As with all things, the truth lies somewhere in the middle.



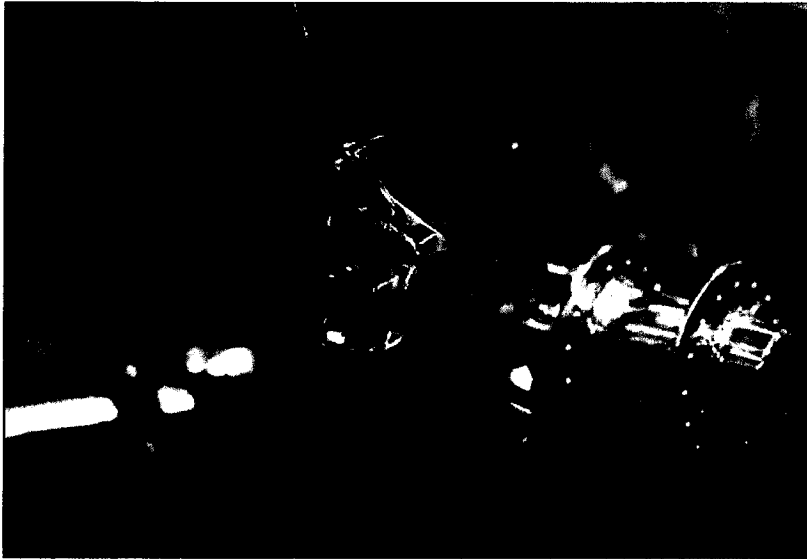
Vicious Cycles threw us this year with a decidedly non-vicious paintjob to highlight its frames.

As Stu has shown, manufacturers will go way out of the box with paint schemes to grab your eye in what is already a dizzying visual event. Vicious cycles is no exception but this year they decided a kinder gentler approach would be apropos to catch the eye of the passerby. It worked, as Fergs thought the beautiful execution of this particular strategy was worth a shot, and it's hard to argue with the guy holding the camera.



If you looked up "bicycle" in the dictionary you'd probably see a picture a lot like this: Rigid fork, steel frame and single speed. About as basic and simply beautiful in execution as you can get. Before you get too excited you should know that it's a 29er.





Formula's One Brake brings some glamour to big bike stopping duties.

Formula has a new contestant in the heavy duty brake market. They are calling it the "One" and it's chock full of features that have hardcore users in mind. It houses a massive 24mm piston inside a single piece forged caliper to handle the dirty work of the stopping chores. They've also done a tremendous job at the lever incorporating several features that increase the survivability in the case of a major stack. These include breakaway fail-safe parts at several points along the lever and its connection to the caliper. All these improvements are aimed at keeping you away from a big crash in the first place but if it's unavoidable making sure you can get home afterward without a complete loss of braking function.



Spyder was there and is intent on adding bling to your bike. Their red anodized bashguard was intricately decorated and the carbon fiber bottle holder was pretty slick... but who runs water bottles on MTB's anymore?

Jelly Belly was at the show promoting its line of energy products. They decided this custom painted motorcycle and sidecar would be good for grabbing attention and they were right. If you got near it, it was hard not to take a gander at.



This is how their jelly rolls

Mini-Rant: Eating at Interbike is anything but healthy, balanced nutrition. If you can squeeze out the time there are good breakfasts to be had for sure, and decent dinner options are around if you don't have more official engagements. However in the purgatory that is the middle of the show day at Interbike, eating is catch as catch can... and the catch is usually not good.

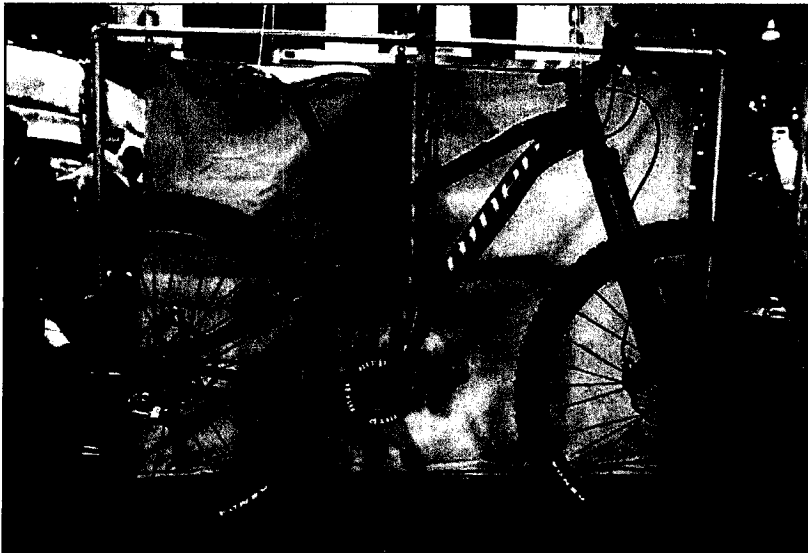
The food stands offer up basic concession grub just good enough not to make prisoners or conventioners riot, but real food means leaving the show altogether and that is usually not an option during the busy days. That means you become an opportunity feeder snarfing up bits of Powerbars, sample slugs of Cytomax, gel cubes and whatever else you can get your hands on short of bits of carpet from the show floor.

This brings me to Sport Beans; the energy food offering from Jelly Belly. They of course had free sample packs available to the passersby and knowing we'd be hungry Fergs and I loaded up for later in the day. As the day wore on and the appointments ran together we reached for these packs of Jelly sustenance and chowed down. Turns out in our show-haze we'd grabbed the Extreme Sport Beans that have not only electrolytes, carbs and vitamins... but also caffeine. After a bag or two we were feeling ready to take on the world, if not a little rough in the stomach. I don't blame that on the beans as mixing so many energy supplements in such a small space can only end in tears anyway.



Paying the piper; the price of admission for the photo opp. with the Look girls was being branded with a company tattoo.

As happens with all things caffeinated the ride ended abruptly and our rapid descent left us scrambling for some protein to avoid total meltdown. Lesson learned. Take a piece of fruit at breakfast, pack a turkey sandwich along or even make run for a hotdog if you must... but don't rely on show samples to power you through the day. The rush is fun but the landing is tough to walk away from.



Big wheels keep on turning... just not on the Shore.

Despite having no traction (in a retail sense) on the Shore or in Europe, the 29'er movement rolls on in other segments of the cycling market. This full suspension example from Niner bikes was pretty to look at and later they rolled out a even swankier version with a liberal use of carbon. Ed Snyder Stay tuned for even more goodies from Interbike as our own coverage keeps rolling along. In the meantime share your thoughts about what's already on display by hitting the boards.



Fergs even got a smooch from the Marzocchi girl. It must be that 'nice guy' thing he's got going.

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inspired by our freeriding friends at Joyent

## EXHIBIT 14

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<http://www.tyr.com><http://www.youtube.com/user/watchtyr>

14,605

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**TYR Sport**  
Tuesday

Click on the link below for your chance to enter into the 2012 Ironman U.S. Championship on August 11, 2012 and a Hurricane Freak of Nature Wetsuit.



TYR Sport

The leader in performance swimwear, triathlon apparel, swim accessories and equipment.

Page: 14,605 like this

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Robert Woehike, Jen Savage and 6 others like this.



**TYR Sport** shared a link.  
3 hours ago

All eyes on Matt Chrabot !

**Triathletes Jarrod Shoemaker, Matt Chrabot have all eyes on Olympics | SI.com**  
[sportsillustrated.cnn.com](http://sportsillustrated.cnn.com)

Is there an Olympic event -- summer or winter -- that demands more from its athletes than the triathlon? The event itself is grueling, and the

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Michael Scherrer, Raymond Wayne and 3 others like this.

Also On

<http://www.tyr.com><http://www.youtube.com/user/watchtyr>

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Andy Potts

AP Workout of the Day Sponsored by TYR Sport- Swim WU...

22 3 · 5 hours ago



Justin Fabian Photography

Andy Potts 1st place at a very wet 2012 Ironman St. Croix...

21 hours ago



Andy Potts

AP TYR Give Away of the Month! <http://www.tyr.com/sh...>

13 5 · Tuesday at 1:36pm



Race Grader

FREE RACE registration. We're giving away a registration to...

Tuesday at 10:45am

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5 hours ago

Matt Chrobot in his TYR Parka.

Get yours today: <http://www.tyr.com/shop/alliance-team-parka-p-308.html>



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David Estrada, Michael Dannerberger and 3 others like this.



TYR Sport shared a link.

Yesterday

Rooting you on Matt Chrobot!

**Mason Swimming Alumni Matt Chrobot to Compete in Triathlon Olympic Trials**  
[www.gomason.com](http://www.gomason.com)

On May 12, Matt Chrobot will be racing against more than just the clock; he will be racing against his fellow country-men and top talent from across

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Julie Lestyan and 2 others like this.



TYR Sport

Tuesday

Ryan Dolan and Bonner Paddock 1 man 1 mission.org. Check him out.



SwimSwam

News/Media

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TYR Sport shared a link via USA Swimming.

6 hours ago

**USA Swimming - Charlotte UltraSwim Grand Prix**

[www.usaswimming.org](http://www.usaswimming.org)

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Dustin Beau Delantar and Kyle Callan like this.



TYR Sport shared a link via Sarah Haskins Triathlete.

9 hours ago

Go Sarah Haskins Triathlete!

**Sarah Haskins Ready To Battle For Final Olympic Spot**

[triathlon.competitor.com](http://triathlon.competitor.com)

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Dale Seifer, Michael Groaning and 2 others like this.



TYR Sport

Yesterday

Gear up before it's gone. Shop the TYR Outlet and save up to 50% Off regular prices. [http://www.tyr.com/shop/sale-c-297.html?](http://www.tyr.com/shop/sale-c-297.html?utm_source=outlet&utm_medium=eml&utm_campaign=050912)

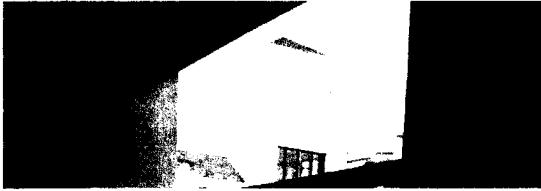
[utm\\_source=outlet&utm\\_medium=eml&utm\\_campaign=050912](http://www.tyr.com/shop/sale-c-297.html?utm_source=outlet&utm_medium=eml&utm_campaign=050912)



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WetsuitOutlet.com, Yann Kruch and 10 others like this.



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April



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**AND WIN!**

Enter now for your chance to win an entry into the 2012 Ironman U.S. Championship in NY/NJ on August 11, 2012 and a Hurricane Freak of Nature Wetsuit. Page: 14,605 like this

Jay Lakamp, Mie Nishizumi and 2 others like this.



**PERFORMANCE.**  
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**TO ATTAIN**

**Trish Anderson Deim** Always out front...amazing TYR!  
April 18 at 10:48am





**TYR Sport**  
April 16

Click on the link below for your chance to enter into the 2012 Ironman U.S. Championship NY/NJ on August 11, 2012 and a Hurricane Freak of Nature Wetsuit.



#### CLICK HERE TO ENTER NOW

Enter now for your chance to win an entry into the 2012 Ironman U.S. Championship in NY/NJ on August 11, 2012 and a Hurricane Freak of Nature Wetsuit.  
Page: 14,605 like this

Like · Comment · Share

2

Marcos Boaglio, Michael Dannerberger and 10 others like this.



**TYR Sport** Please be sure to click on the "Click here to enter now" link above to be entered. Best of luck to all!  
April 16 at 9:07am



**Andy Potts**  
April 13

AP Workout of the Day- How about this for a pool workout?  
[http://www.youtube.com/watch?v=gpspS8qN\\_cQ](http://www.youtube.com/watch?v=gpspS8qN_cQ)

Asics America TYR Sport

#### Sink Or Sprint Test

[www.youtube.com](http://www.youtube.com)

Can a lightweight shoe help you float on water? See how ASICS never stops innovating, so you can stop at never. Initiate Test at <http://www.StopAtNever.com>

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23

Anthony J. Scaturro, Eric Ryan and 36 others like this.

View all 6 comments



**Matt Dussarte** Great products and hilarious videos! thanks for sharing Andy!  
I share  
April 13 at 7:30am



**Sam Baldwin** Very cool, but would have been more accurate if you had the other competitor be an elite athlete too. The guy probably fell in the water mostly because he is not a professional runner. If you had an elite runner race with the non-Asics shoe and they fell in the water, then it would be more conclusive!  
May 1 at 2:17pm



**Vo2 Performance Center**  
April 9

In this months edition of tri-magazine.net read what director of coaching Ben Bigglestone has to say about the Freak of Nature from TYR Sport and how to fine tune your bodies sense of perceived effort.

**tri-magazine**  
[www.tri-magazine.net](http://www.tri-magazine.net)

Click here for your free subscription Step into the World of Off-Road Triathlon

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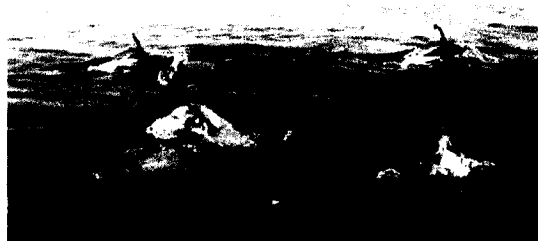


**Andy Potts**  
April 8



**Ralph Teller**  
April 9

A great way to support PENNY PALFREY'S SWIM CUBA to FLORIDA!  
<http://www.firstgiving.com/fundraiser/pennypalfrey/pennypalfreyfundraisingpage>



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**Team VO2Multisport**  
April 9

In this months edition of tri-magazine.net read what team owner and director of coaching at Vo2 Performance Center Ben Bigglestone has to say about the Freak of Nature from TYR Sport and how to fine tune your bodies sense of perceived effort.

**tri-magazine**  
[www.tri-magazine.net](http://www.tri-magazine.net)

Click here for your free subscription Step into the World of Off-Road Triathlon

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**Andy Potts**  
April 9

AP Workout of the Day Sponsored by TYR Sport: Swim/kick Day WU:

600 build

6 x 100 as 50 drill / 50 kick

6 x 50 pull

MS: "Get Ready"

8 x 75 as 25 kick / 25 drill / 25 swim; r=:10

6 x 50 as evens: dolphin kick(face down or on back) / odds:

freestyle / streamline kick; r=:10

6 x 50 as evens: 1 arm build for 25 / 1 arm FAST for 25 / odds:

dolphin kick easy for 25 / dolphin kick HARD for 25

Happy Easter Everyone!! Post a picture of the best egg you decorated and the "Best" one(judged by my kids) gets a set of TYR Sport VLO bib shorts and top.

Like · Comment · Share

29 12



**Rachel McBride**  
April 2

Check out my review of the incredible TYR Sport Freak of Nature wetsuit at rachelmcbride.com!! Or better yet, go try one on and see for yourself at West Point Multisport.

Like · Comment · Share

1



**TYR Sport** shared a link.  
April 2

Enter now for an entry into the 2012 Ironman U.S. Championship in NY/NJ on August 11, 2012 ("championship") for winner only and a Hurricane Freak of Nature Wetsuit.

**TYR 2012 Ironman US Championship in NYC**  
[apps.facebook.com/sweepstakeshq](https://www.facebook.com/sweepstakeshq)

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7



**TYR Sport** shared a link.  
April 2

Sarah Haskins Triathlete's Race Report

**Nautica South Beach Triathlon - Race To The Toyota Cup**  
[www.sarahhaskins.com](http://www.sarahhaskins.com)

My first Olympic distance race of the year kicked off in South Beach, Miami this past Sunday. This was my second time back to the race and I was

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3



**TYR Sport** shared a link.  
April 2

<http://lavamagazine.com/wp-content/files/gallery/galveston/TollaksonBike.jpg>  
[lavamagazine.com](http://lavamagazine.com)

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2 1



**TYR Sport** shared a link.  
April 2

**Nick Thoman - Indy GP**  
[youtu.be](http://youtu.be)

Nick Thoman - Gold medalist in the 100m back at the Indianapolis Grand Prix

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1 1 1

300 as 25 kick / 75 DPS  
CD:  
200 easy

Like · Comment · Share

17 4



**TYR Sport**  
April 2

Thanks for helping us break 14,000 Fans! LET'S CELEBRATE!

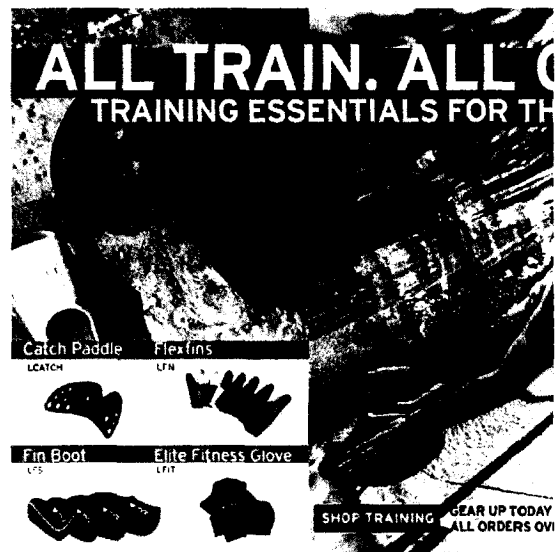
"Like" THIS post (now through tomorrow at 12EST) and we'll randomly select TWO fans that will win an Andy Potts autographed signing card in honor of his recent win at Ironman 70.3 this weekend.

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204 1



**TYR Sport**  
April 2



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25



**TYR Sport** shared a link.  
April 2

SwimMAC's Nick Thoman raced to victory in the event with a 53.85, just shy of his eighth-ranked season best of 53.78 from earlier this month.

**Lane 9 News Archive: USA Swimming Grand Prix, Indianapolis: Michael Phelps Blazes World-Best Time in**  
[www.swimmingworldmagazine.com](http://www.swimmingworldmagazine.com)

SwimmingWorld.com - The World's Leading Independent Resource For Aquatic Sports

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**TYR Sport** shared a link.  
April 2

TJ Tollakson Professional Athlete at Ironman 70.3 Texas T2.

 **TYR Sport** shared a link.  
April 2

Nick Thoman at the 2012 Indy Grand Prix

**Nick Thoman Photos: 2012 Indianapolis Grand Prix - Day 2**  
www.zimbio.com

Nick Thoman swims in the men's 200 meter backstroke finals during day two of the Indy Grand Prix @ the Nat at the Indiana University

Like · Comment · Share

4 1

 **TYR Sport** shared a link.  
April 2

Sarah Haskins Triathlete Won Nautica South Beach Triathlon this weekend. Congrats Sarah!

**Gomez, Haskins Win Nautica South Beach Triathlon**  
triathlon.competitor.com

It was a beautiful day for a race in Miami, and several Olympians and Olympic hopefuls turned up to compete.

Like · Comment · Share

6 1

 **TYR Sport** shared a link.  
April 2

TJ Tollakson Professional Athlete looking awesome on the bike at Ironman 70.3 Texas.

**Ironman 70.3 Texas**  
triathlon.competitor.com

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 **TYR Sport** shared a link.  
April 2


Have you heard?

**TYR Launches FastStache**  
triathlon.competitor.com

The TYR research and development team has unveiled the most advanced technical innovation to ever hit the face of swimming.

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19 5 1

 **TYR Sport** shared a link.  
April 1

Now that's a FREAK! Go Andy Potts, Go Andy!

<http://lavamagazine.com/wp-content/files/gallery/lava-oceanside-70/000-3.jpg>  
lavamagazine.com

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9 2

**IM70.3 Texas: TJ Tollakson and Bryan Rhodes T2**  
youtu.be

Exclusive video from our On Assignment Reporter of TJ Tollakson & Bryan Rhodes racing through Bike to Run transition (T2) at Ironman70.3 Texas

Like · Comment · Share

2 3

 **TYR Sport** shared Life Time Fitness Triathlon Series - Race to the Toyota Cup's photo.  
April 2



Like · Comment · Share

8 2

 **TYR Sport** shared a link.  
April 2

Richie Cunningham gets 2nd at this weekends Ironman 70.3 Oceanside. Nice six pack, Richie!

<http://2.bp.blogspot.com/-EErZefsLlxU/T3kUCIvg1wI/AAAAAAAAAog/DV-s0bHZNwU/s1600/Richie+Swim.jpg>  
2.bp.blogspot.com

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3 1

 **TYR Sport** shared a link.  
April 2


Ariana Kukors at the 2012 Grand Prix

**Ariana Kukors in 2012 Indianapolis Grand Prix - Day 3**  
www.zimbio.com

Ariana Kukors swims in the women's 200 meter individual medley preliminaries during day three of the Indy Grand Prix @ the Nat at the Indiana

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5 1

 **TYR Sport** shared a link via slowtwitch.  
April 1



**TYR Sport** shared a link.  
April 1

**2012 IM 70.3 California**  
www.slowtwitch.com

Beset by cold water and cold temperatures, Ironman 70.3 California produced some sizzling performances by Andy Potts and Melanie McQuaid at Oceanside. Photo Gallery by Timothy Carlson.

Like · Comment · Share

4



**TYR Sport** shared Life Time Fitness Triathlon Series - Race to the Toyota Cup's photo.  
April 1

Congrats to Sarah Haskins Triathlete!

Big congratulations to Javier Gomez and Sarah Haskins Triathlete for their wins at the Nautica South Beach Triathlon today!



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14

Likes  
April



**Women's Running**



**Wassner Twins**



**GOTRIBal**

+11

**Potts, McQuaid rule Oceanside**  
www.slowtwitch.com

Andy Potts won his fourth title in six tries at this race and XTERRA queen Melanie McQuaid won her second title at the distance at Ironman 70.3 California on a cool, gray day in Southern California

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4



**TYR Sport** shared a link.  
April 1

Great pics! Thanks Triathlete Magazine.

**Photos: 2012 Ironman 70.3 California**  
triathlon.competitor.com

Photos from the 2012 Ironman 70.3 California triathlon in Oceanside.

Like · Comment · Share

10 2



**TYR Sport** shared a link.  
April 1

Happy April Fool's Day!

**TYR FastStache**  
www.youtube.com

TYR FastStache

Like · Comment · Share

40 2 16



**Ben Bigglestone** **TYR Sport**  
March 31 near Newcastle, WA

Thanks TYR Sport for helping VO2 Multisport Elite Team athletes Laura A. Coombs and Megan Monroy to 1st and 3rd place podium finishes at Ironman 70.3 California today in the F25-29 category. Great start to the 2012 season!

Like · Comment

6 2

Show all stories from April 2012

Earlier in 2012



**TYR Sport** added 4 photos to the album TYR In the News.  
March 30



**TYR Sport**  
March 30

**Ironman Expo 2012** (4 photos)



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115 1 3

TYR Sport  
March 24

Craig Alexander exits the water at IM Melbourne in the NEW Freak of Nature — with Craig Alexander and Craig (CROWIE) Alexander.



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97 2 2

TYR Sport added 6 photos to the album TYR In the News.  
March 12

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115 1 3

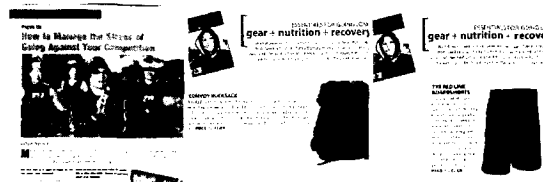
TYR Sport  
March 3

New TYR athlete Nikki Butterfield WINS Abu Dhabi!



Like · Comment · Share

9

TYR Sport added 4 photos to the album TYR In the News.  
March 13

Like · Comment · Share

115 1 3

TYR Sport  
March 9

Shop now and receive free shipping on all order over \$75 at TYR.com. Happy Shopping!





Like · Comment · Share

96 6 2



**TYR Sport**  
February 12 via HootSuite

Check out @LanceArmstrong walking to the swim start this morning in his TYR Torque. Looking good Lance!  
<http://ow.ly/91kno> <http://ow.ly/i/slvH>



Like · Comment · Share

20



**TYR Sport** shared a link.  
February 3

Happy Friday TYR Fans! We're spreading some love and selecting 5 random winners that "like" or "share" this post with a TYR Red Line Vintage Patch Trucker Hat. Winners will be selected Monday, February 6 at 5pm EST.

**TYR Sport Online Store : Red Line Vintage Patch Trucker Hat**  
[www.tyr.com](http://www.tyr.com)

TYR Sport Online Store : Red Line Vintage Patch Trucker Hat [HBAS] - The Red Line Vintage Trucker Hat showcases a fully adjustable mesh-back and a

Like · Comment · Share

179 9 2



**TYR Sport** shared 3/GO's photo.  
January 25

Looking great Chrissie Wellington.

While Chrissie is enjoying the Italian countryside, 3/GO contributor, Jim Gourley, explores life without Chrissie.....<http://www.3gomagazine.com/>

Like · Comment · Share

24 2



**TYR Sport**  
February 12

Check out Lance Armstrong walking to the swim start this morning in his TYR Torque. Looking good Lance!...



**STRONG - PRE SWIM**  
**ENT: 2012 IRONMAN 70.3 PANAMA**

Like · Comment · Share

39 1 1



**TYR Sport** added 3 photos to the album TYR In the News.  
February 9



Like · Comment · Share

115 1 3



**TYR Sport** added 3 photos to the album TYR In the News.  
January 30



Like · Comment · Share

115 1 3



**TYR Sport**  
January 18

Did you catch TYR on Glee's Yes/No episode last night?

TYR's Solid Reversible Maxback Swimsuit as seen on Glee:  
<http://www.tyr.com/shop/solid-reversible-maxback-swimsuit-p-867.html> — with glee.



Like · Comment · Share

43 · 5 · 1

TYR Sport  
January 16

Visit TYR.com and use coupon code TYR11612 to receive 20% off all orders this week only! Happy Shopping!



Like · Comment · Share

18 · 4 · 4

TYR Sport shared a link.  
January 10

Thanks for helping us break 13,000 fans today. In your honor, we're spreading the love and selecting 5 random winners that "like" this post with a TYR Red Line hooded sweatshirt. Winners will be selected Friday, January 13 at 5pm EST.

**TYR.com: Red Line Hooded Sweatshirt**  
[www.tyr.com](http://www.tyr.com)

TYR Sport Online Store : Search Results -  
Men, Youth, Women, Equipment, Videos, Sale, Swim  
Suits, Triathlon, Sayonara Swimskin,

Like · Comment · Share

623 · 25

TYR Sport  
January 5

As listed in the January, The Briefing Issue



Like · Comment · Share

19 · 3 · 1

TYR Sport  
January 15

Photo by Mike Comer / Pro Swim Visuals



Like · Comment · Share

96 · 15 · 3

TYR Sport  
January 6

Win a TYR Hurricane Freak of Nature!!! Find out more at  
Triathlete Magazine's  
<http://triathlon.competitor.com/freakofnature/>



Welcome back, everyone! We're pumped for a great year ahead. Hope you are too!

Like · Comment · Share

41 2 1

Show all stories from 2012



TYR's Hurricane Freak of Nature featured in the January and February 2012 Issue of Triathlon Canada Magazine.

## what's new/what's hot



TYR Freak of Nature

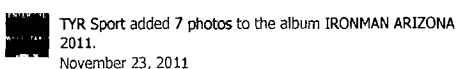
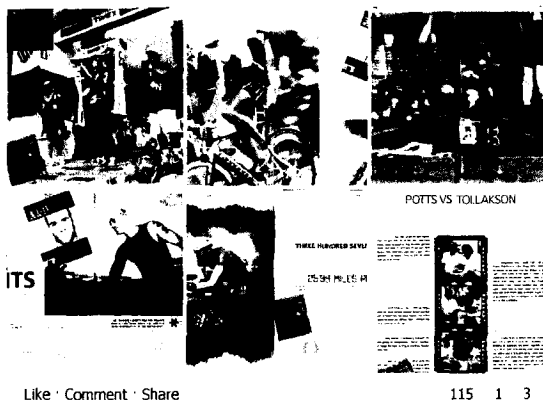
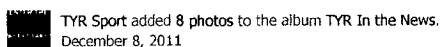
### TYR Freak of Nature, \$1,200

A wetsuit that costs \$1,200? Yes, TYR has one. Taking the Freak of Nature into transition is guaranteed to set you apart. It begins with the special wood and metal case that is inscribed with a special serial number. (Oh, did we mention this is a limited model?) It continues with the super-comfy and snug fit thanks to the Yamamoto #40 neoprene that's used throughout this suit. TYR has thrown in pretty much every bell and whistle they can, too. There are special elevation panels made with serrated neoprene to optimize your position in the water, stretch panels (ROM Zones, as the TYR folks like to call them) to provide optimal flexibility where you need it, quick-release ankle cuffs and V-Grip panels to improve your catch. (If you need to ask, this

Like · Comment · Share

19 1 3

2011



Hello TYR Fans,  
Need a one of kind holiday gift? What about a TYR IRONMAN World Championship Kona 2011 t-shirt and visor signed by Tom Lowe and Pete Jacobs.

"Like" this photo and one randomly selected Facebook Fan will be selected tomorrow at noon EST.

Happy Holidays!

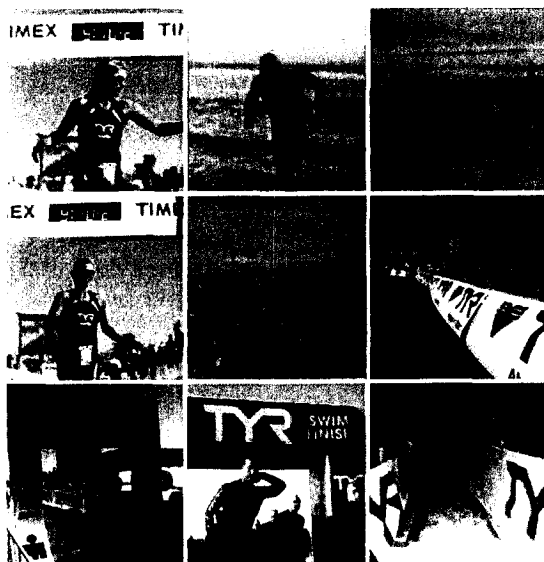




Like · Comment · Share

29 1 1

TYR Sport added 10 photos to the album Ironman Florida 2011.  
November 16, 2011



Like · Comment · Share

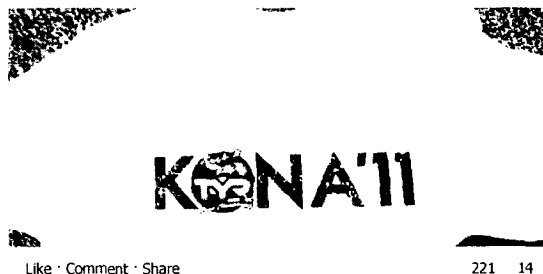
28

TYR Sport added 24 photos to the album Ironman Kona 2011.  
October 8, 2011



Like · Comment · Share

89 2



Like · Comment · Share

221 14

TYR Sport added 10 photos to the album Ironman Kona 2011.  
November 16, 2011

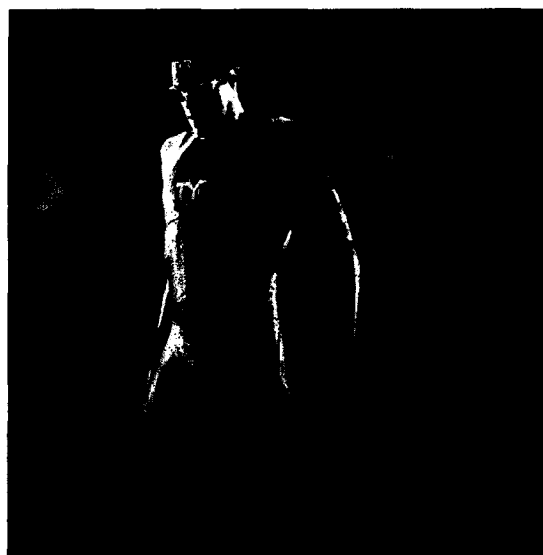


Like · Comment · Share

89 2

TYR Sport  
November 9, 2011

Andy Potts redefines what's possible in TYR's New Hurricane  
Freak of Nature — with Miguel Cintron and X Tri Endurance.



Like · Comment · Share

37 20 13

TYR Sport

**TYR Sport**  
October 6, 2011

**Kona 2011: TYR Expo Booth (10/5/11)** (95 photos)



Like · Comment · Share

11 1

**TYR Sport**  
September 11, 2011 via mobile

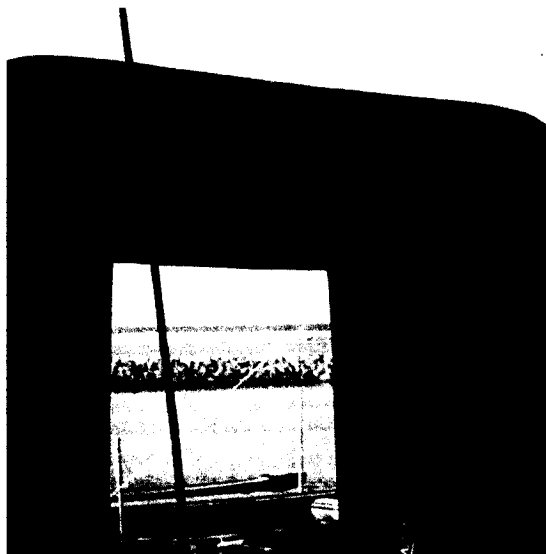
15 minutes til start time at Ironman 70.3 World Championship.

Like · Comment · Share

32 1

**TYR Sport**  
August 20, 2011

**USA Triathlon Age Group Nationals** (61 photos)



**TYR Sport**  
October 6, 2011

Who wants an autographed card from the 4x IRONMAN World Champion and Ironman World Record Holder Chrissie Wellington? "Like" this photo for a chance to be randomly selected and we'll ship it right out to you. Best of luck!



Like · Comment · Share

270 6 2

**TYR Sport**  
October 5, 2011

**Kona 2011: TYR Expo Booth (10/4/11)** (152 photos)

Thanks for stopping by! --- in Kailua-Kona, HI.



Like · Comment · Share

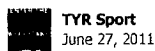
6 1

**TYR Sport**  
July 19, 2011



Like · Comment · Share

24



Congrats to Caroline Gregory. 4th overall in debut Ironman as a pro. Officially welcome to the family!

**TIMEX** **4:30:52** **TIMEX**



Like · Comment · Share

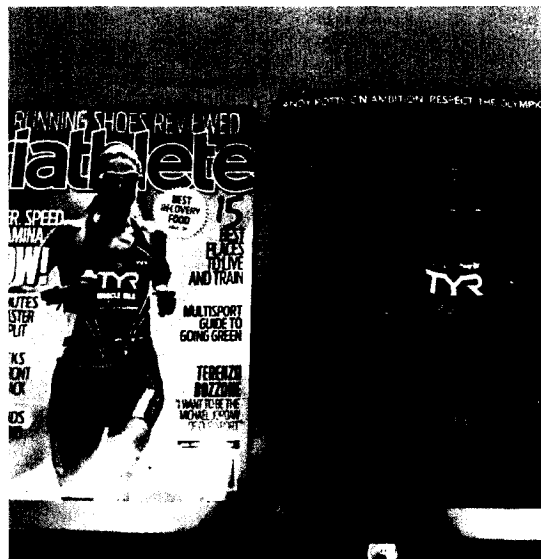
53 18



**Ironman St George 2011** (7 photos)

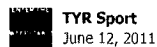


The August covers! All they do is win! We are TYR. — with Lisa Potts.



Like · Comment · Share

33 7



Congratulations to Chrissie Wellington on winning Ironman 70.3 Kansas in 4:11:08.

Like · Comment · Share

48 1

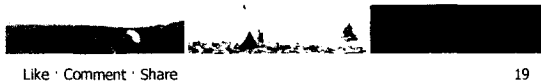


**German Nationals 2011** (19 photos)



Like · Comment · Share

10



Like · Comment · Share

19



**TYR Sport**  
April 10, 2011

Chrissie Wellington just set a new world record at IRONMAN South Africa 8:33:56!! Congrats Chrissie! We are TYR!

Like · Comment · Share

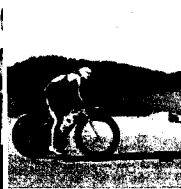
75 10



TYR Sport added 5 photos to the album New for 2011.  
February 16, 2011



Like · Comment · Share



36 2

Show all stories from 2011



**TYR Sport**  
April 20, 2011

### TYR Transition Backpack

Chrissie Wellington and TYR Product Developer talk about the Convoy Transition Backpack — with Chrissie Wellington.



Like · Comment · Share

15 1



**TYR Sport**  
January 24, 2011

### New for 2011 (16 photos)



Like · Comment · Share

36 2

2010



**TYR Sport**  
December 23, 2010

Kompetitive Edge hooking their athletes up for Christmas!



**TYR Sport**  
December 17, 2010

TYR athlete and current World Record holder, Ariana Kukors, took Gold in the 100m IM in Dubai today, December 17, 2010. Having set the Championship Record in yesterday's semi-finals at 58.65, Ariana followed up with a convincing 58.95 from lane four in the finals.



Like · Comment · Share

15 2



**TYR Sport**  
December 8, 2010

TYR Renews Agreement as Official Sponsor to French Swimming Federation (FFN)

Read the recent release: [http://tiny.cc/tyr\\_ffn\\_sponsor](http://tiny.cc/tyr_ffn_sponsor)

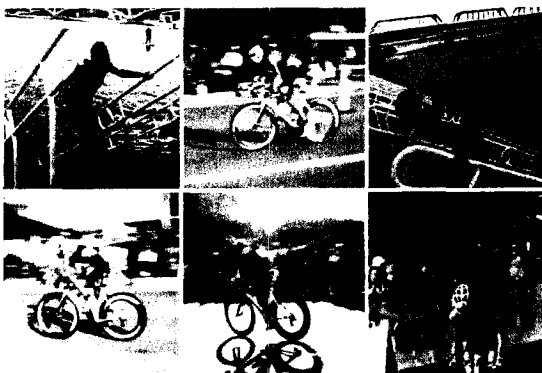


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15 2



**TYR Sport** added 20 photos to the album Ironman Arizona.  
November 21, 2010



Like · Comment · Share

17 5



**TYR Sport**  
October 24, 2010

Fran Crippen's spirit was contagious, his smile was pure and the love of life and sport could be felt by everyone who knew him.



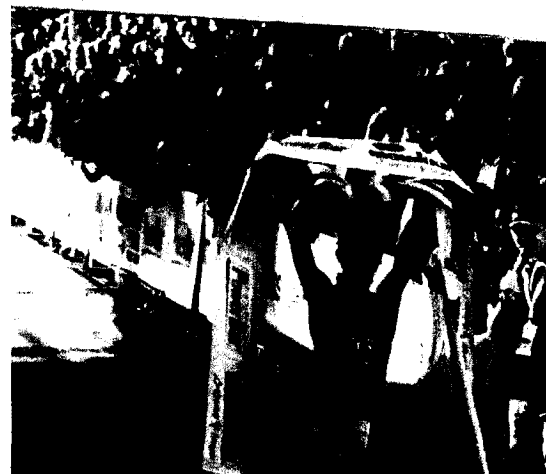
Like · Comment · Share

14 2



**TYR Sport**  
November 22, 2010

**Ironman Arizona** (61 photos)



Like · Comment · Share

17 5



**TYR Sport** shared a link.  
November 4, 2010

**We are TYR! (:30)**  
[www.youtube.com](http://www.youtube.com)

We are TYR (30 second sizzle reel)

The news of Fran's passing came as shock and brought grief to our TYR family. We extend the deepest sympathies to the Crippen family. We compiled the following gallery of Fran to share with everyone. We will add to it periodically over the next few days. Please share the memories with us

Like · Comment · Share

23 9



**TYR Sport**  
October 17, 2010

### TYR Kona 2010 (31 photos)



Like · Comment · Share

5



**TYR Sport**  
September 9, 2010

### Torque (11 photos)

Like · Comment · Share

21 6



**TYR Sport**  
October 24, 2010

### In Loving Memory of Fran Crippen (16 photos)

In Loving Memory: 1984 – 2010

Fran Crippen's spirit was contagious, his smile was pure and the love of life and sport could be felt by everyone who knew him. The news of Fran's passing came as a shock and brought grief to our TYR family. W...See More



Like · Comment · Share

31 10



**TYR Sport** shared a link.  
October 12, 2010

### Chrissie Wellington – Looking forward...

[www.chrissiewellington.org](http://www.chrissiewellington.org)

On Saturday I had one of the hardest decisions to make of my life – whether or not to toe the start line of the World Ironman Championships. In the end I didn't race. But before I try and explain the

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21 1



**TYR Sport**  
September 3, 2010

Torque Swimskin Series Available Now at:  
<http://www.tyr.com/torque/>



Torque Male Pro



Torque Female Pro



Torque Male Elite



Torque Female Elite



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8 3



**TYR Sport**  
August 22, 2010

**Timberman 2010** (9 photos)



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11



**TYR Sport**  
August 8, 2010

**People you may know in TYR 2010** (9 photos)

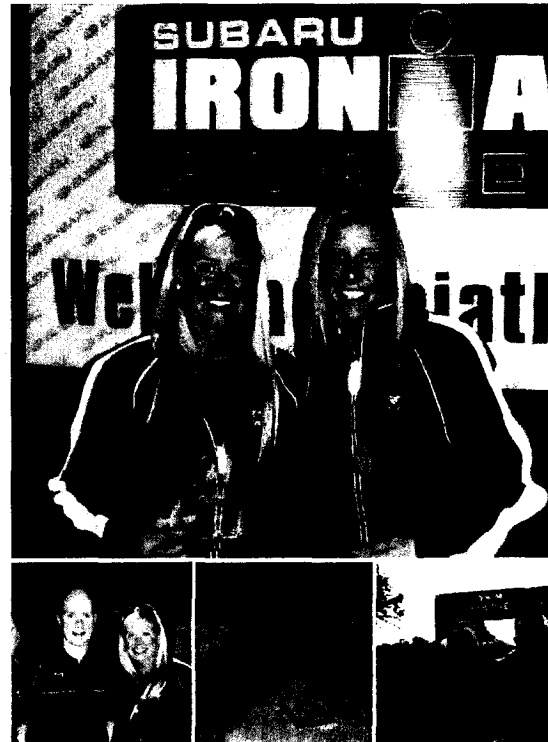
Like · Comment · Share

13 9



**TYR Sport**  
September 2, 2010

**Ironman Canada 2010** (68 photos)  
IMC by Kevin Steinbuch and Brian Hainsworth



Like · Comment · Share

9 4



TYR Sport added 30 photos to the album 2010-2011 Workbook.  
August 20, 2010



Like · Comment · Share

28 2

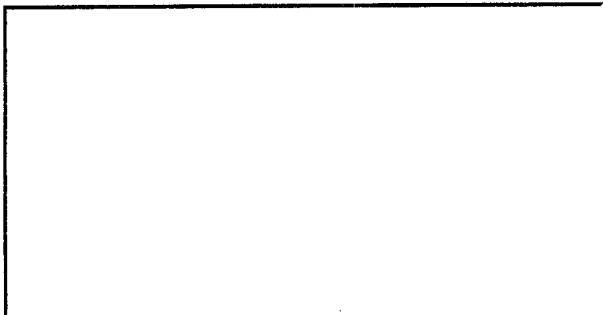


**TYR Sport**  
August 4, 2010

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- 
- [1,748 Tweets](#)
  - [197 Following](#)
  - [5,252 Followers](#)

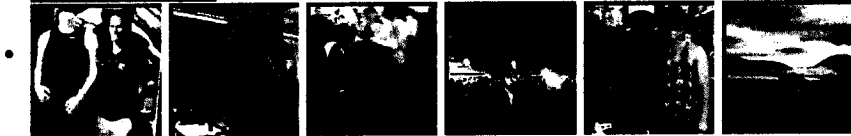
## Tweet to TYR Sport, Inc.

@TYRSport



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## Tweets



3h **TYR Sport, Inc.**@TYRSport

All eyes on Matt Chrabot ! [fb.me/12T9kARha](https://fb.me/12T9kARha)

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5h **TYR Sport, Inc.**@TYRSport

Matt Chrabot in his TYR Parka. Get yours today: [tyr.com/shop/alliance-...](http://tyr.com/shop/alliance-...) [fb.me/1TaXmulJV](https://fb.me/1TaXmulJV)

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7h [TYR Sport, Inc. @TYRSport](#)

USA Swimming - Charlotte UltraSwim Grand Prix [fb.me/1pH7AsrQv](https://fb.me/1pH7AsrQv)

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9h [TYR Sport, Inc. @TYRSport](#)

Go Sarah Haskins Triathlete! [fb.me/1lcMXRFZ5](https://fb.me/1lcMXRFZ5)

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9 May [TYR Sport, Inc. @TYRSport](#)

Gear up before it's gone. Shop the TYR Outlet and save up to 50% Off regular prices....  
[fb.me/1YkhzB4cL](https://fb.me/1YkhzB4cL)

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9 May [TYR Sport, Inc. @TYRSport](#)

Rooting you on Matt Chrabot! [fb.me/1CHnLyQBb](https://fb.me/1CHnLyQBb)

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8 May [TYR Sport, Inc.@TYRSport](#)

Click on the link below for your chance to enter into the 2012 Ironman U.S. Championship on August 11, 2012 and a... [fb.me/1BpyHaPGY](https://fb.me/1BpyHaPGY)

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8 May [TYR Sport, Inc.@TYRSport](#)

San Diego Ready To Welcome World's Best [fb.me/11vr3VjWp](https://fb.me/11vr3VjWp)

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8 May [TYR Sport, Inc.@TYRSport](#)

Go Sarah Haskins Triathlete and Matt Chrabot. We're rooting you at ITU World Triathlon San Diego this weekend. [fb.me/1lUxMU8dI](https://fb.me/1lUxMU8dI)

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8 May [TYR Sport, Inc.@TYRSport](#)

Big day for Matt Chrabot this weekend! [fb.me/1oOyE8uNi](https://fb.me/1oOyE8uNi)

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8 May [TYR Sport, Inc. @TYRSport](#)

As seen in Lava Magazine. [fb.me/1W5j0gzw7](https://fb.me/1W5j0gzw7)

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8 May [TYR Sport, Inc. @TYRSport](#)

[@chrispyg](#) You got it! Exactly.

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8 May [TYR Sport, Inc. @TYRSport](#)

[@chrispyg](#) You got it! Great job.

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7 May [TYR Sport, Inc. @TYRSport](#)

Can you name the print of Nick Thoman's racer? [fb.me/1Lm1n6LEF](https://fb.me/1Lm1n6LEF)

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7 May [TYR Sport, Inc.@TYRSport](#)

The Freaks were out this weekend! [fb.me/1g1DRhe0N](https://fb.me/1g1DRhe0N)

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7 May [TYR Sport, Inc.@TYRSport](#)

Shop the new USA Collection:... [fb.me/1DIQv70gF](https://fb.me/1DIQv70gF)

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7 May [TYR Sport, Inc.@TYRSport](#)

A conversation with Josh Schneider [fb.me/1mQ8yqbqh](https://fb.me/1mQ8yqbqh)

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6 May [TYR Sport, Inc.@TYRSport](#)

Roch Frey helping TYR's Robert Dennis give direction at today's TYR Wetsuit Demo.  
[fb.me/DpICDkWh](https://fb.me/DpICDkWh)

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6 May [TYR Sport, Inc. @TYRSport](#)

Paul Huddle and Roch Frey at today's TYR Wetsuit Demo [fb.me/uvenymLh](https://fb.me/uvenymLh)

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6 May [TYR Sport, Inc. @TYRSport](#)

[fb.me/V5oNldlG](https://fb.me/V5oNldlG)

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4 May [TYR Sport, Inc. @TYRSport](#)

Mother's Day is just around the corner. Shop [TYR.com](https://TYR.com) for that special mom in your life....  
[fb.me/1BwwL31Qh](https://fb.me/1BwwL31Qh)

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4 May [TYR Sport, Inc. @TYRSport](#)

Catch up with Julie Dibens [fb.me/1k8sA5bm8](https://fb.me/1k8sA5bm8)

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3 May  [TYR Sport, Inc.@TYRSport](#)

Wishing Sarah Haskins Triathlete and Matt Chrabot good luck as they prepare for next week's ITU Race in San Diego!!! [fb.me/CysypqV2](https://fb.me/CysypqV2)

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3 May  [TYR Sport, Inc.@TYRSport](#)

Enter the TYR Sweepstakes for a chance to win an entry into the 2012 Ironman U.S. Championship on August 11 and a... [fb.me/1BdxLawCr](https://fb.me/1BdxLawCr)

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2 May  [TYR Sport, Inc.@TYRSport](#)

Make A Splash With Water Running. Shop TYR Aquatic Fitness Equipment now.....  
[fb.me/1iopW1x01](https://fb.me/1iopW1x01)

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2 May **TYR Sport, Inc. @TYRSport**

In the market for a wetsuit? [fb.me/1tcd0MFEz](https://fb.me/1tcd0MFEz)

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1 May **TYR Sport, Inc. @TYRSport**

Watch now as Ariana Kukors shows off her musical talents. [fb.me/16ymWbG2z](https://fb.me/16ymWbG2z)

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30 Apr **TYR Sport, Inc. @TYRSport**

I posted a new photo to Facebook [fb.me/1PL1HGRe](https://fb.me/1PL1HGRe)

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29 Apr **TYR Sport, Inc. @TYRSport**

Congrats to Sarah Haskins Triathlete for defending her St Anthony's Triathlon title today....  
[fb.me/1hH4xozO9](https://fb.me/1hH4xozO9)

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- **FavoritedFavorite**



27 Apr TYR Sport, Inc. @TYRSport

brokentriathlete.com Best wishes during your Kona Journey Kevin Robson! TYR Sport  
fb.me/1kLAcJ0co

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27 Apr TYR Sport, Inc. @TYRSport

TGIF TYR Fans. What are your weekend plans?

**Expand Collapse**

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26 Apr TYR Sport, Inc. @TYRSport

Transition like Andy Potts. fb.me/1BwHBigri

**Expand Collapse**

- **Reply**
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24 Apr TYR Sport, Inc. @TYRSport

Keep up the great work TJ! fb.me/1IseQUynj

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23 Apr [TYR Sport, Inc. @TYRSport](#)

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23 Apr [TYR Sport, Inc. @TYRSport](#)

Shop TYR Shorts now:... [fb.me/1VCD7koQV](https://fb.me/1VCD7koQV)

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## EXHIBIT 15

the best hair in Hollywood:

how to get it

# SEVENTEEN

May 1997

the **45**  
**coolest**  
things to do this  
**summer**

**quiz:**  
can you  
keep a  
secret?

"everyone has a  
**boyfriend**  
but me"

hangin' with  
**MTV veejays**

**bored and  
stoned:**  
one high school's story

"I found out  
my dad was gay"

**moms  
& daughters**

tell what they share...  
and what they don't



plus... Billy Crudup, Indigo Girls and more

TYR 004048

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**Trump card:** Model and cover school sophomore Ivanka Trump. Dress, Vera Wang. Tam, Silver bracelet, Lulu. Coast, three for last pages. Clinique: Stay a Shadow in Inch, Eye-Shading Charcoal Brown, Lush Oil-Free Here Colour in Bare, Almost Lipstick Bare, Hair, Keith, Makeup. Buckle. Styling, Azria-Palombo. Photograph by Marc Baptiste.

n tes



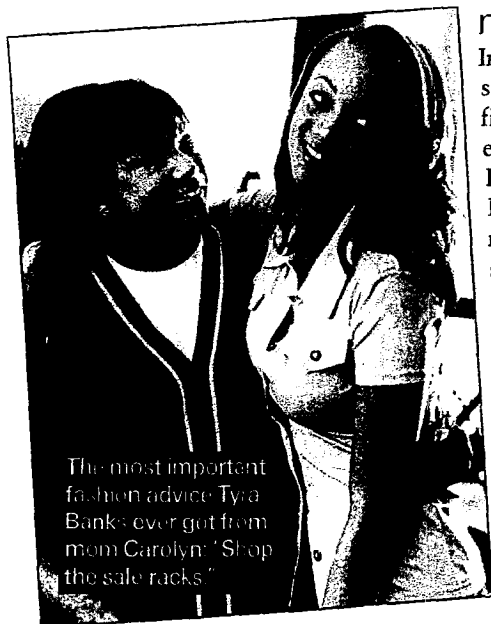
# super summer '97

**I**f you haven't lined up plans for the summer, fear not. Our special report on page 110 is designed to inspire your best-ever, most action-packed and worthwhile June, July and August. To give you the inside scoop on the cool jobs available out there, we talked to a guy who was a whale in a theme park, a girl who assisted a hot director on a feature film and even someone who drained fries in the local burger joint. There's also tons of tips on how to find the summer internship or camp of your dreams, plus how to volunteer and what to do with those precious moments off.

## boyfriendless

Do you ever feel like everyone has a boyfriend but you? Guess what: You're not alone. Most of us have gone through times (maybe years) when there hasn't been a significant other in our lives. And there's nothing wrong with it. In fact, there's a lot right with it, like discovering who you are, what you enjoy and what you need on your own, *without* a guy. All this fosters goals, independence and a stronger you.

In her story on page 88, Melanie Mannarino writes about the stage in her own life when all her BFs found crushes and she had no one. After the initial loneliness, she discovered that having a boyfriend didn't necessarily make life better. Actually, after hanging out a while with her girlfriends who were hitched, she was appreciating her singleness more and more.



The most important fashion advice Tyra Banks ever got from mom Carolyn: "Shop the sale racks."

## my mother, myself

In honor of Mother's Day, we decided to round up some very cool celeb mothers and daughters to find out what their styles are, how they influence each other's tastes and who raids whose closet. Included in this sixsome are our cover model, Ivanka Trump, and her mom, Ivana (with some revealing dish from Ivanka's dad, Donald); designer Betsey Johnson and her daughter, Lulu—Betsey is the one with the rebel taste—and supermodel Tyra Banks and her mom, Carolyn.

For some help and laughs, take a look at the best and worst celeb hair on page 40. And . . . can you keep a secret? Find out what it takes (page 66).

Enjoy this issue.

TYR 004050

*Meredith*

# seventeen

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## Love letter

Thank you so much for featuring Jennifer Love Hewitt both on the cover and inside your February issue ["Love's Story," Fashion]. I *totally* agreed with her on the way relationships should be. It's cool to know someone famous feels the same way about guys as I do.

Brittany B.  
Houston, TX

## party girl

You guys got it perfect in "Do You Dare to Throw a Party?" [February]. In November, my parents went out of town for the weekend. I threw a party and have been grounded ever since. The house got trashed. There was a chunk out of the coffee table, a footprint on the wall,

stains on the carpet, and tons of things got broken. The house smelled like beer for a week. When my parents got home, my mom called people's parents, and it seemed like everyone at school was mad at me. It was totally *not* worth it.

Sarah H.  
Cincinnati

I was bored and irritated with "Do You Dare to Throw a Party?" Not all unsupervised parties are a disaster. In my "wild" days I threw at least six or seven parties without my parents' knowledge. I knew the huge risks and consequences, but that was why it was so much fun—I had no clue what might happen.

Justa  
Knoxville, TN

## in the game

Thanks so much for "Fear of the Ball" [Bodyline, February]. I used to be afraid of the ball in gym and now I've changed. I'm still not a jock or a really great athlete, but I participate and I don't get picked on as much. I'm glad there are people who have experienced the same thing.

Zoe  
Minneapolis ▶

## class act

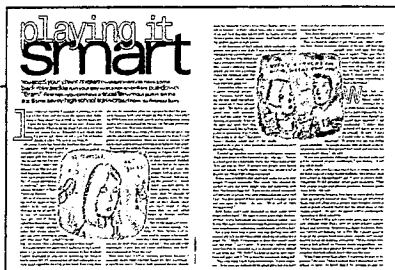
For years I've been labeled "the smart girl." People have tried to make me feel bad about being intelligent. "Playing It Smart" [February] helped me realize that intelligence is something to be proud of. I don't have to become someone else so people will like me. I guess society is just going to have to accept and respect smart, beautiful and powerful women!

Mindy  
North Carolina

I know a lot of girls, myself included, who won't speak up in class because they're afraid of what people might say about them. I think everyone should be able to share their thoughts and ideas without being put down for being smart. I mean, you don't see Michael Jordan getting trashed because he's good at basketball. Why is being good at school any different?

Laura Dilgard  
Woodland, CA

Thanks for your story on girls refusing to act dumb. I make straight A's in school, and I often get called names like



"nerd" or "dork." Sometimes I try to act clueless to fit in with the popular crowd, but I always feel really bad about myself. After reading your story, I feel extremely confident that I can be myself.

Sarah  
Wrightsville Beach, NC

Some consider me one of the "back-row slackers" you mentioned, but with all that I've learned about jealousy and prejudice this year, I do not fit that label. Instead of rolling my eyes for the fifth time as the girl in front of me raised her hand with the correct answer, I asked for her help. I was disgusted with myself when I realized she in no way fit the stereotype I had of smart kids. This girl became my friend once I realized how sincere, sweet and confident she was.

R.  
California

# seventeen

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Fitness of a different stripe:  
Rest is part of the picture.



Not for members only:  
Club clothes that cross over.

## Sidelines

"[She] is ready to date, but only somebody special. An athlete maybe, maybe a baseball player who is humanitarian, smart, loves kids and animals."

—A friend of Kimberley Conrad Hefner (currently separated from Hugh) commenting on the ex-Playboy centerfold's romance plans

**Cover Story: 5 Body Fixes** Need to lose weight? Stay motivated? Find energy? Make time? So do the pros—and their solutions can help you get in shape, too. **By Alexandra Siegel. Photographed by Jake Chessum**

**Athlete: Girl Over Board** Meet skateboarder Cara-Beth Burnside, the first lady of alternative sports. **By Jennifer Egan. Photographed by Craig McDean**

**Body: The Breast News Ever!** The bigger they are, the harder they make our active lives. Luckily, the latest sports bras can help. **By Jeannie Ralston**

**Style: Club Ties** Just because the country club has a dress code doesn't mean you have to follow it to a tee. **Photographed by Mark Mattock**

**Survey: Who Cheats?** From sports to sex to taxes, America is bending the rules in a big way. Our exclusive poll reveals who's cheating, and **Marshall Sella** explains why we can't help it.

**Nutrition: Good Fat, Bad Fat** All fats are not created evil. Knowing which is which may save your life. **By Carol Kramer**

Editor's Letter  
Contributors  
Letters  
April Planner  
Sources  
No Sweat



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Fats we love: Olives and others.

Bringing along baby: Kelly's Trek backpack (\$140).

Super brew:  
Can tea leave  
us healthier?

## Essential elements of the physical life

Spring into action: slow-motion weight training; putters with the soft touch; the watches of the moment; soy made palatable; the further joy of sex; good news for Zorro wannabes; and more.

**The Gym: Group Effort** Two-on-one sessions make personal training more accessible—and cheaper too.

**Fitness Trend: So Inclined** Serious workout buffs are getting in shape by running up hills and stairs.

**Training: The Ripple Effect** A stronger torso goes beyond aesthetics: It's the key to exercising longer and smarter. Plus: Trainers share their secret client fantasies.

**Body: Pulling Up the Rear** Lotte Berk is practically a cult among the ladies who crunch. Here's a guide to the exercises that keep them coming back.

**Health: Knead to Know** Massage can be your best friend, but be sure you're getting rubbed the right way. Plus: New treatments for tight muscles.

**Nutrition: Model Teas** The other hot beverage gets some respect as a miracle brew.

**Food: Fudging It** After an active day, nothing beats biting down on the perfect brownie.

**Beauty: Day Glow** Hang on to that healthy, just-off-the-field flush with colors that outdo nature, almost.

**Style: Hanging Loose** Forget leggings; sweats are a more relaxed way to dress down.

**The Biz: The Fashion Connection** From Polo to Prada, fashion designers are getting serious about sports. But can they compete?

**Travel Notebook: Camp Miami** Athletic tourism here is a unique blend of high fashion, high tech and extreme kitsch.

**Review: Emotional Baggage** Don't call the baby-sitter; the latest kid's gear lets you take the tyke along.

**Goal: Up in Smoke** A winter stint at a remote Alaskan weather station was supposed to be the perfect way to quit smoking. But first she had to hide the ammo. By Melanie Sumner

**Action Figure: Yable Talk** Supermodel and Ping-Pong ace Veronica Webb serves with gusto at Hollywood's ultrachic Chateau Marmont.

**News: The Prize** Will college hoops star Chamique Holdsclaw become the Michael Jordan of the women's game? By Sally Jenkins

**Legends: The Original Gidget** Who was Malibu's first surfer girl? Hint: Sally Field didn't play her on TV.

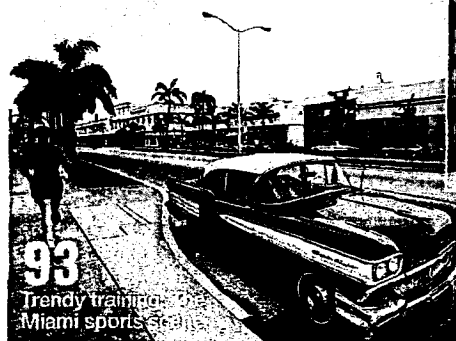
CLOCKWISE FROM UPPER RIGHT: DAVIES & STARR; ILLUSTRATION BY LENE DUE-JENSEN; GUIDO COZZI/BRUCE COLEMAN; CHRISTY BLUSH; JAKE CHESSUM; NORMAN



51 Pulse: The 411 for the physical life



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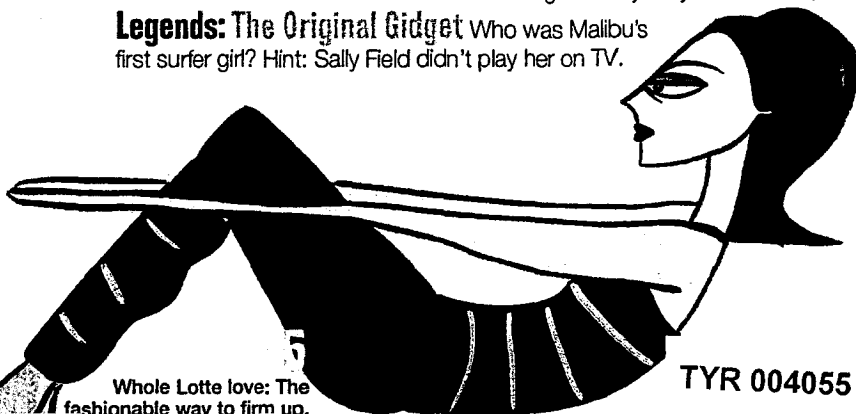


93 Trendy training: Miami sports scene



### On the Cover

Our columnist, pro beach volleyball player Gabrielle Reece, on the beach in Marina del Rey, CA. This month, Reece takes a break from her regular column to be one of our expert athletes in "5 Body Fixes." Turn to page 118 for her down-to-earth advice on staying in shape. Photographed by Ben Watts. Hair and makeup by Karen Mitchell. Swimsuit by Calvin Klein. Styled by Aileen Marr.



5 Whole Lotte love: The fashionable way to firm up.

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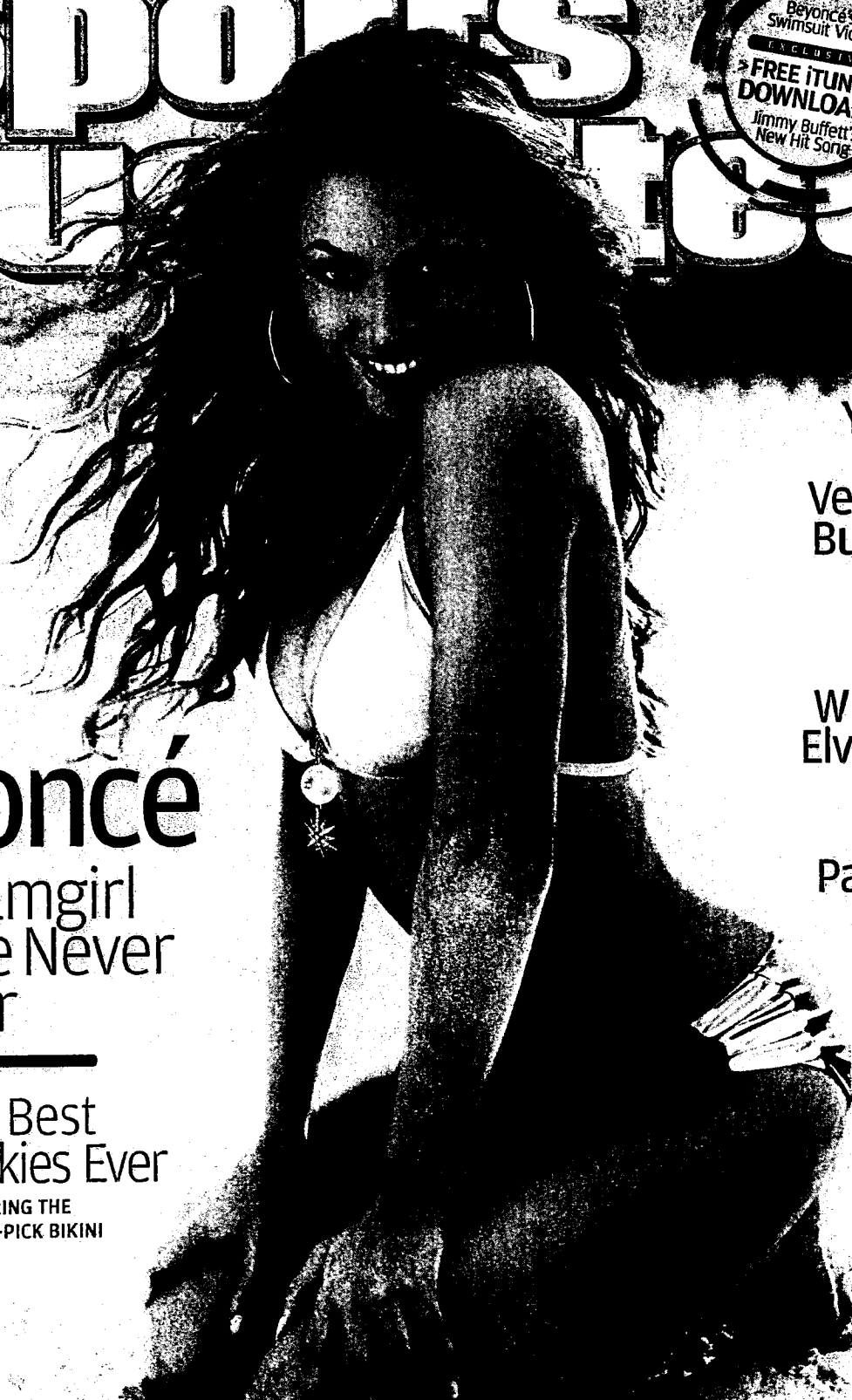
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# SWIMSUIT 2007 | THE MUSIC ISSUE

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# Sports Illustrated



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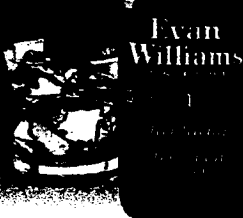
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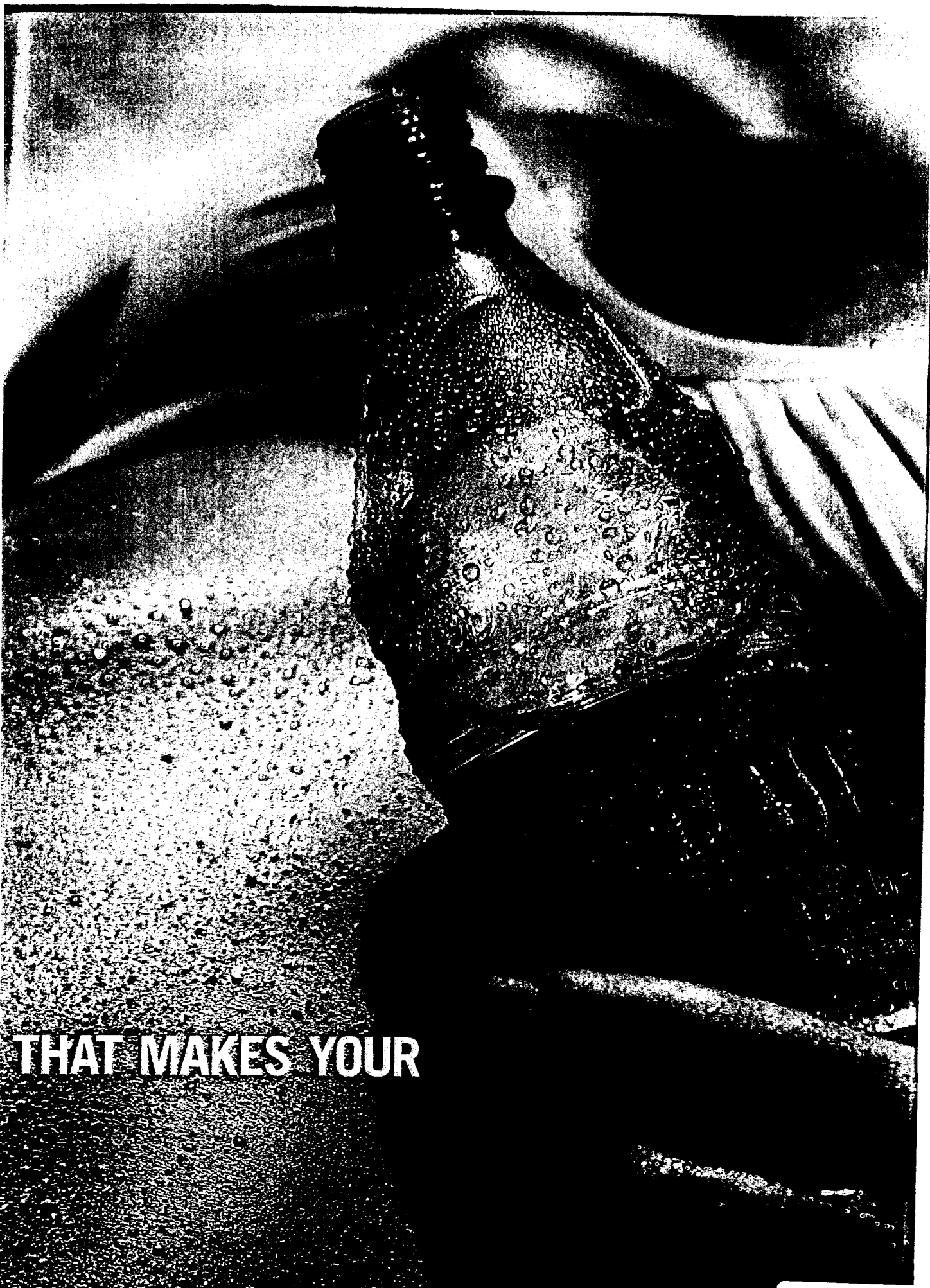


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# "We did it!"

**REACH YOUR GOAL!**

My mantra is simply 'Go and don't look back.' Keep trying harder and pushing yourself.

—Morales

**Your triathlon-training essentials**

Must-have monitors gauge how hard you're working \$150

Swimming goggles \$100

Triathlon shoes \$100

Swimming goggles \$100

Triathlon shoes \$100

## Self Magazine Showcases TYR as Training Essentials

Self magazine teamed up with *Today Show* hosts Natalie Morales and Hoda Kotb to encourage women to enter the sport of triathlon to stay in shape. As part of a two-page spread in November's *Self*, TYR's Multi Silicone Swim Cap and Technoflex® 4.0 Junior Brites Swim Goggle are featured as "Triathlon-Training Essentials."

Self reaches an audience of more than 1.5 million readers.



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Andy Potts Beats the Field and the Weather in St. Croix

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TYR Launches FastStache – Face Borne Speed Gear

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## Sports Illustrated Highlights Chrissie Wellington

With a circulation of 3.3 million readers, this week's Sports Illustrated issue showcases a two-page spread of defending Ironman world champion Chrissie Wellington. The feature *Leading Off: Honor Roll* captures Chrissie rolling across the Kona finish line in memory of John Blais and in support of the Blazeman Foundation.

[Read the rest of this entry »](#)

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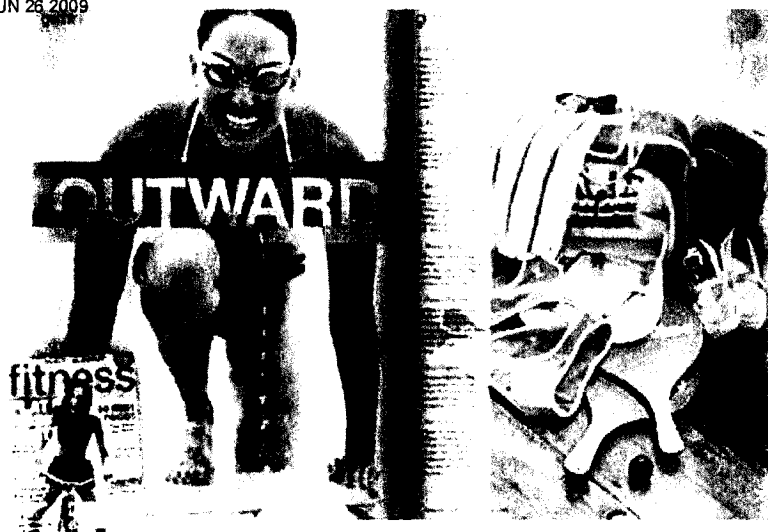
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JUN 26 2009



## Fitness Magazine Showcases Top TYR Summer Fashions

On newsstands now, the July/August issue of Fitness magazine highlights eight pages of the TYR Summer Swim Collection.

The Double Binding Reversible Workout Bikini Top and Bottom is the editor's GetFit swimsuit choice for a summer beach day, offering women two swimsuit options in one. While the female specific Femme T-72® Petite Metallized goggle prominently appears in a full page of the women's health and fitness magazine.

In a five-page *Slim Down in a Splash* workout spread, the Open Water World Championship Trials champion demonstrates land and pool exercises wearing the Crossback Workout Bikini.

Watch a video of the pool exercises [HERE](#).

Fitness magazine reaches an audience of 1.6 million readers who are passionate about living a healthy, active lifestyle.

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<b>Word Mark</b>	TYR
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: SPORTS MARKETING SERVICES IN THE NATURE OF SPONSORSHIP AND ENDORSEMENT OF ATHLETES IN SPORT COMPETITIONS. FIRST USE: 19870000. FIRST USE IN COMMERCE: 19870000
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76397630
<b>Filing Date</b>	April 17, 2002
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	February 24, 2004
<b>Registration Number</b>	<b>2842240</b>
<b>Registration Date</b>	May 18, 2004
<b>Owner</b>	(REGISTRANT) TYR Sport, Inc. CORPORATION CALIFORNIA 15391 Springdale Street Huntington Beach CALIFORNIA 92649
<b>Attorney of Record</b>	Donna A. Rubelmann, Esq.
<b>Prior Registrations</b>	1458467
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR).
<b>Live/Dead Indicator</b>	LIVE

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<b>Word Mark</b>	TYR
<b>Goods and Services</b>	IC 025. US 039. G & S: CLOTHING, NAMELY [ UNDERSHIRTS, ] T-SHIRTS, SHORTS, BIKE SHORTS, FITNESS SHORTS AND WARM UP TIGHTS, AND SWIMWEAR, NAMELY SWIMSUITS, SWIM CAPS, BATHING SUITS AND BATHING TRUNKS. FIRST USE: 19851003. FIRST USE IN COMMERCE: 19851003
	IC 028. US 022 044. G & S: SWIM ACCESSORIES, NAMELY GOGGLES, HAND PADDLES, TRAINING PADDLES, KICK BOARDS, NOSE CLIPS, AND EARPLUGS. FIRST USE: 19851006. FIRST USE IN COMMERCE: 19851006
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	73646651
<b>Filing Date</b>	February 26, 1987
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1A
<b>Published for Opposition</b>	June 30, 1987
<b>Registration Number</b>	<b>1458467</b>
<b>Registration Date</b>	September 22, 1987
<b>Owner</b>	(REGISTRANT) TYR SPORT, INC. CORPORATION CALIFORNIA 156391 SPRINGDALE STREET HUNTINGTON BEACH CALIFORNIA 92649
<b>Attorney of Record</b>	Donna Rubelmann
<b>Type of Mark</b>	TRADEMARK
<b>Register</b>	PRINCIPAL
<b>Affidavit Text</b>	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070502.
<b>Renewal</b>	1ST RENEWAL 20070502
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# TYR.COM

<b>Word Mark</b>	TYR.COM
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: On-line retail store services featuring sportswear, equipment and accessories. FIRST USE: 20041001. FIRST USE IN COMMERCE: 20041031
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	LETTER-3-OR-MORE TYR Combination of three or more letters as part of the mark NOTATION-SYMBOLS Notation Symbols such as Non-Latin characters,punctuation and mathematical signs,zodiac signs,prescription marks
<b>Serial Number</b>	77461174
<b>Filing Date</b>	April 29, 2008
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	September 23, 2008
<b>Registration Number</b>	3768232
<b>Registration Date</b>	March 30, 2010



<b>Owner</b>	(REGISTRANT) <b>TYR Sport, Inc.</b> CORPORATION CALIFORNIA 15391 Springdale Street Huntington Beach CALIFORNIA 92649
<b>Attorney of Record</b>	Donna Rubelmann
<b>Type of Mark</b>	SERVICE MARK
<b>Register</b>	PRINCIPAL
<b>Live/Dead Indicator</b>	LIVE

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# TYRFIT

<b>Word Mark</b>	TYRFIT
<b>Goods and Services</b>	IC 028. US 022 023 038 050. G & S: SPORTS EQUIPMENT, namely, AQUATIC BUOYS FOR RECREATIONAL USE, FLOTATION BELTS, SWIM BELTS, FITNESS GLOVES, AND AQUATIC KICKBOARDS. FIRST USE: 20071212. FIRST USE IN COMMERCE: 20071212
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Trademark Search Facility Classification Code</b>	LETTER-3-OR-MORE TYR Combination of three or more letters as part of the mark
<b>Serial Number</b>	77270830
<b>Filing Date</b>	September 4, 2007
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 1, 2008
<b>Registration Number</b>	3603480
<b>Registration</b>	April 7, 2009

**Date**

**Owner** (REGISTRANT) TYR Sport, Inc. CORPORATION CALIFORNIA 15391 Springdale Street  
Huntington Beach CALIFORNIA 92649

**Attorney of  
Record** Donna Rubelmann

**Prior  
Registrations** 1458467;2842240;3101184;AND OTHERS

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Live/Dead  
Indicator** LIVE

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## Typed Drawing

<b>Word Mark</b>	TYR FUSION 2
<b>Goods and Services</b>	IC 025. US 022 039. G & S: CLOTHING, FOOTWEAR AND HEADGEAR, NAMELY, COATS AND JACKETS; SHIRTS AND TOPS INCLUDING TANK TOPS AND T-SHIRTS; SWEATSHIRTS AND SWEAT PANTS; SHORTS; CAPS AND HATS; GLOVES AND MITTENS; SKIRTS; TROUSERS; JEANS; HOSIERY; DRESSES; ROMPERS; OVERALLS; SHOES; SANDALS; BOOTS; HOUSE SHOES; SLIPPERS; VESTS; BLOUSES; BANDANAS; SCARVES; TIES; NECKWEAR; BELTS; HEAD BANDS; JOGGING AND WARM-UP SUITS; SWEAT BANDS; SOCKS; SLEEPWEAR, NAMELY PAJAMAS, SLEEP SHIRTS AND ROBES; DORM SHIRTS; UNDERWEAR; LINGERIE; BOXERS; SWIMWEAR. FIRST USE: 20040601. FIRST USE IN COMMERCE: 20040901
<b>Mark Drawing Code</b>	(1) TYPED DRAWING
<b>Serial Number</b>	76552667
<b>Filing Date</b>	October 20, 2003
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	July 20, 2004
<b>Registration Number</b>	3101184
<b>Registration Date</b>	June 6, 2006
<b>Owner</b>	(REGISTRANT) TYR Sport, Inc. CORPORATION CALIFORNIA 15391 Springdale Street Huntington Beach CALIFORNIA 92649
<b>Attorney of Record</b>	Donna A. Rubelmann
<b>Prior Registrations</b>	1458467
<b>Type of Mark</b>	TRADEMARK

Register PRINCIPAL  
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IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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TYR Sport, Inc.,

)

Opposition Nos.

)

91197669 and 91197670

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Opposer,

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vs.

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Marc Dushey,

)

)

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Applicant.

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13

DEPOSITION OF MARC M. DUSHEY

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New York, New York

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February 28, 2012

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Reported by:

24

BETH RADABAUGH, RPR

25

1

2 A P P E A R A N C E S:

3

4 ON BEHALF OF OPPOSER

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12 501 Herondo Street, Suite 45

13 Hermosa Beach, California 90254-5241

14 BY: DONNA RUBELMANN, ESQ.

15

16 MARC DUSHEY, Pro Se

17 TYR Water Company

18 One State Street, 21st Floor

19 New York, New York 10004

20

21

22

23

24

25

1 M. M. Dushey

2 reporter to mark this as Opposer's  
3 Exhibit 2.

4 Q. This is a protective order that is  
5 automatically of record in every TTAB  
6 proceeding. What it provides is that  
7 everything that is said here by you today will  
8 be considered confidential until 30 days after  
9 service of the transcript of this deposition.  
10 You'll have that period of time to then mark  
11 things that you want to be treated as  
12 confidential. Otherwise, everything will  
13 become a matter of public record.

14 MS. CALCAGNO: This is Opposer's  
15 Exhibit 2.

16 (Opposer's Exhibit 2, document  
17 entitled Provisions for Protecting  
18 Confidentiality of Information Revealed  
19 During Board Proceeding, is marked for  
20 identification as of this date.)

21 Q. Marc, your full name is Marc Dushey  
22 or is there a middle initial or --

23 A. Dushey.

24 Q. Dushey, Marc Dushey.

25 A. M. Dushey.



1 M. M. Dushey

2 exist anymore.

3 Q. Manhattan Water Company no longer  
4 exists. Okay.

5 Let me go back into some preliminary  
6 questions. Have you ever had your deposition  
7 taken before?

8 A. No.

9 Q. Okay. It's important during the  
10 deposition, as the court reporter mentioned to  
11 you, that you answer verbally, that you don't  
12 shake your head no or go up and down because  
13 she's recording everything stenographically.  
14 Do you understand?

15 A. Correct.

16 Q. Okay. During the course of the  
17 deposition I may ask questions that you don't  
18 understand because I've said them and they're  
19 too vague or there's just something about it  
20 you don't understand. If I do that, ask me to  
21 correct myself. Okay?

22 A. Okay.

23 Q. Okay. If at any point during the  
24 deposition you need to take a break, just ask  
25 us. We'll have to finish the question. If

1 M. M. Dushey

2 does that have to do with anything with this?

3 Q. I don't have to really answer that,  
4 but I'll tell you in these cases at the TTAB  
5 you have to answer the questions that are put  
6 to you at the deposition.

7 A. Dwight High School, but I object to  
8 that.

9 Q. Okay. You can object to it and then  
10 let me just explain the procedure so you know.  
11 If the Board finds that the objection is well  
12 taken when they review the transcript, then  
13 they'll exclude the question and the answer.  
14 Okay?

15 A. Um-hmm.

16 Q. Go ahead. Where did you go to high  
17 school?

18 A. Dwight.

19 Q. Dwight. And where is that located?

20 A. I'm not sure exactly at the moment.

21 Q. What state?

22 A. New York.

23 Q. New York. New York City?

24 A. New York City.

25 Q. Where did you go to college?

1 M. M. Dushey

2 A. I don't even recall.

3 Q. Eight years?

4 A. No.

5 Q. You have no recollection of the time  
6 it took for you to graduate from high school  
7 and go to take college classes?

8 A. No. I was traveling.

9 Q. You were traveling. How long did  
10 you travel?

11 A. I don't even recall.

12 Q. Mr. Dushey, I want to make the  
13 deposition as short as we can, but if we're  
14 going to have trouble remembering events like  
15 when did I go to college, we're going to be  
16 here for a long time. It's also possible for  
17 me to get a discovery magistrate on the phone.  
18 I'd rather not do that. So let's try and  
19 remember.

20 When were you in NYU? When do you  
21 remember being in NYU? Do you remember about  
22 what age you were?

23 A. No.

24 Q. Okay. Do you remember when you got  
25 your first job out of high school?

1 M. M. Dushey

2 A. No.

3 Q. No employees. Are there any other  
4 officers?

5 A. No.

6 Q. Is it incorporated?

7 A. Yes.

8 Q. Okay. Do you remember when you  
9 incorporated TYR Water?

10 A. It was October 2010 or 2009. I'm  
11 not sure exactly.

12 Q. So you're the sole officer, sole  
13 director, no employees of TYR Water Company?

14 A. Correct.

15 Q. Are there any investors in the  
16 company besides yourself?

17 A. No.

18 Q. You're the sole. Okay.

19 Prior to being the CEO of TYR Water  
20 Company in 2010, what was your employment?

21 A. The Manhattan Water Company.

22 Q. Manhattan Water Company. And do you  
23 remember when you started at Manhattan Water  
24 Company?

25 A. 2005.

1 M. M. Dushey

2 A. Correct.

3 Q. And you incorporated it in 2005 or  
4 2006?

5 A. Correct.

6 Q. Okay. What were the duties and  
7 responsibilities of the other employees that  
8 you had at that company? What kinds of things  
9 would they do for you?

10 A. Deliveries.

11 Q. Deliveries. Did you have sales  
12 personnel?

13 A. No.

14 Q. Sales reps?

15 A. (Shaking head).

16 Q. No. Who did sales?

17 A. Me.

18 Q. You? You were in charge of sales?

19 A. (Nodding).

20 Q. Okay. Prior to starting Manhattan  
21 Water Company, what was your business  
22 affiliation?

23 A. There was no business affiliation.

24 Q. None? You were not employed before  
25 2005?

1 M. M. Dushey

2 A. Global Financial.

3 Q. Global Financial. Did you work for  
4 Global Financial?

5 A. I did.

6 Q. Okay. When did you work for  
7 Global Financial?

8 A. I don't recall the dates. It was  
9 prior to that.

10 Q. Prior to 2005?

11 A. Yeah.

12 Q. Did you work there for one year?

13 A. It was freelance on and off.

14 Q. On and off. One year?

15 A. No, I'd say about two to three years  
16 I think.

17 Q. Two to three years. Can we ball  
18 park it at 2002?

19 A. Yeah.

20 Q. 2002?

21 A. I guess.

22 Q. So when you said on and off, would  
23 they call you with a project?

24 A. I would call them.

25 Q. You would call them and say I want a

1 M. M. Dushey

2 A. I'm not sure.

3 Q. You're not sure?

4 A. Yeah.

5 Q. Was your father involved?

6 A. At the time I'm not sure.

7 Q. Was he ever involved with that  
8 business?

9 A. I believe so.

10 Q. Okay. What's your father's name?

11 A. Phillip.

12 Q. Any of your siblings?

13 A. No.

14 Q. None of them were involved with it.

15 Any cousins?

16 A. No.

17 Q. None. So it was your father and  
18 mother?

19 A. Um-hmm. Yes.

20 Q. Okay. Were you taking any of these  
21 NYU classes while you were doing freelance work  
22 for Global Financial?

23 A. No.

24 Q. No. Okay. So sometime between 1994  
25 and 2002 you went to NYU for about a year?

1 M. M. Dushey

2 Q. Was it before the Millenium or  
3 after? Do you remember 2000 New Year's Eve,  
4 YK?

5 A. Before.

6 Q. Before 2000?

7 A. Um-hmm.

8 Q. So that's like 1998 to maybe 1999?  
9 Does that sound right?

10 A. I don't know. I'm unclear exactly  
11 on the dates.

12 Q. Okay. Why don't you think about  
13 that and then we can come back to that later.  
14 Sometimes these things -- things will spark  
15 your memory.

16 So during that period of time  
17 between 1994 and 2000 you were in Israel for a  
18 couple of years. What were you doing there,  
19 traveling or were you with the military?

20 A. Traveling.

21 Q. Just traveling. You had no  
22 employment whatsoever?

23 A. Nope.

24 Q. No employment. What does Global  
25 Financial do?



1 M. M. Dushey

2 A. Nope.

3 Q. Nope. Okay. And you held no formal  
4 title with respect to that company; am I  
5 correct?

6 A. Nope.

7 Q. So you left Global Financial in 2002  
8 and started consulting with other companies  
9 about how to finance the creation of water  
10 companies; am I correct?

11 A. Correct.

12 Q. Is that the limit of what you were  
13 consulting about, the financial basis for  
14 creating a water company?

15 A. I don't understand your question.

16 Q. Did you consult with the other  
17 companies about anything other than financing?

18 A. Yes.

19 Q. Okay. What else did you consult  
20 with them about?

21 A. Water, hydrogeology.

22 Q. Water -- can you spell that, please.

23 A. W-a-t-e-r.

24 Q. And hydro?

25 A. Geology.

1 M. M. Dushey

2 A. Just personal interest.

3 Q. How did you study the area?

4 A. How did I study the area?

5 Q. Yeah.

6 A. Which area? Oh, of hydrogeology?

7 Q. Correct.

8 A. Books, just read books.

9 Q. You read books?

10 A. Um-hmm. Learned from others.

11 Q. When you said you read books, do you  
12 remember any books you read?

13 A. No.

14 Q. Did you read textbooks?

15 A. Books that contained text.

16 Q. Well, there are textbooks that  
17 people use for curriculums in schools. Is that  
18 what you were reading?

19 A. I don't recall, to be honest with  
20 you.

21 Q. Were you reading texts by any  
22 experts you remember in general?

23 A. I don't even recall.

24 Q. Do you know as you sit here today  
25 the name of any experts in the field of water

1 M. M. Dushey

2 Q. Okay. What kind of testing would I  
3 do?

4 A. I don't know. I would call an  
5 engineer for that.

6 Q. So what was your field, what was the  
7 thing that you were focusing on in this area of  
8 water hydrogeology?

9 A. Finance was the field.

10 Q. I'm sorry?

11 A. Finance was the field.

12 Q. It was really finance. Okay.

13 A. Um-hmm.

14 Q. Okay. How did you start Manhattan  
15 Water Company given your background in I take  
16 it finance? Well, let me back up to Global  
17 Financial.

18 When you were working with them on  
19 financial issues, what were you doing with  
20 them?

21 A. I don't recall. It was a long time  
22 ago.

23 Q. You don't recall what you did for  
24 Global Financial?

25 A. Like I said, we were doing -- I was

1 M. M. Dushey

2 Global Financial would lend them the money?

3 A. Whether third-party lenders would  
4 lend them the money.

5 Q. Were you paid by the third-party  
6 lenders?

7 A. It was varied.

8 Q. So sometimes you were paid by the  
9 third-party lenders and sometimes by the  
10 client?

11 A. Yes.

12 Q. Were any of those third-party  
13 lenders or any of the lenders, were they Global  
14 Financial?

15 A. No.

16 Q. No. Why would a client pay you to  
17 analyze their credit in terms of whether they  
18 had sufficient credit to obtain lending from  
19 somebody else?

20 A. I would object. Where does this  
21 have any bearing on --

22 Q. I'm trying to get your background in  
23 the water business, which is what you're doing.

24 A. Okay. What was your question again?

25 Q. Why would third party -- why would

1 M. M. Dushey

2 does it provide, did it provide?

3 A. Water delivery.

4 Q. Was it bottled water?

5 A. Um-hmm. Correct. Yes.

6 Q. Thank you. Water coolers?

7 A. Correct.

8 Q. Any other water-related equipment?

9 A. Yes.

10 Q. What?

11 A. Water pumps.

12 Q. Anything else?

13 A. Such a vast array of equipment that  
14 would come up on an average day. I can't  
15 recall all the pieces of equipment.

16 Q. Did you deliver cups?

17 A. Yes.

18 Q. Anything else?

19 A. Water, cups, water coolers.

20 Q. Okay. Water cups, water coolers.

21 And who would you deliver to, businesses?

22 A. Homes and offices.

23 Q. Homes and offices. Was this

24 24 hours a days seven days a week?

25 A. No.

1 M. M. Dushey

2 Q. Okay. Any other companies whose  
3 water you distributed?

4 A. Nope.

5 Q. Where did Manhattan Water Company  
6 distribute?

7 A. New York City.

8 Q. Just New York City?

9 A. The five boroughs.

10 Q. And the five boroughs. New Jersey?

11 A. Nope.

12 Q. Did Manhattan Water Company do any  
13 kind of promotional stuff?

14 A. No.

15 Q. You didn't advertise the brand at  
16 all?

17 A. No.

18 Q. Did you have a web site?

19 A. Yes.

20 Q. Is that advertising?

21 A. The web site we had back then, it  
22 was maybe eight pages, nine pages. I wouldn't  
23 call it advertising. I would call it a web  
24 site.

25 Q. So how did you get your name in

1 M. M. Dushey

2 Q. Did you promote things on Twitter  
3 and Face Book?

4 A. No.

5 Q. No Twitter and no Face Book?

6 A. (Shaking head).

7 Q. Did you ever go on Twitter or  
8 Face Book?

9 A. Yes.

10 Q. Okay. So when you said no, what did  
11 you mean?

12 A. When Manhattan Water Company was  
13 started, there was no Twitter.

14 Q. Okay. I'm talking about during the  
15 course of the company. What advertising did  
16 Manhattan Water Company employ?

17 A. None.

18 Q. None. What about Twitter?

19 A. No.

20 Q. You just said that they did -- you  
21 did go on Twitter.

22 A. Yes, I did go on Twitter.

23 Q. With Manhattan Water --

24 A. I wouldn't call that advertising.

25 Q. Okay. What would you call that?

1 M. M. Dushey

2 it?

3 A. No.

4 Q. Pens?

5 A. No.

6 Q. Pencils?

7 A. No.

8 Q. Nothing else had the name of the

9 company?

10 A. Nothing.

11 Q. Just the uniforms?

12 A. It wasn't even a uniform. It was a  
13 T-shirt.

14 Q. Just a T-shirt. Okay. What about  
15 delivery trucks?

16 A. Nope.

17 Q. Nothing with the name on it?

18 A. Nothing with the name on it.

19 Q. Did you have a sign in front of your  
20 business?

21 A. We worked out of an office.

22 Q. It didn't say Manhattan Water  
23 Company on it?

24 A. Nope.

25 Q. Letterhead?



1 M. M. Dushey

2 everybody in this room together.

3 Q. Okay. Why did you not do that  
4 through the Manhattan Water Company?

5 A. Because Manhattan Water Company is  
6 about delivering home/office five-gallon  
7 business and we sold the company to another  
8 company. We sold our customer list -- let me  
9 correct that. We sold our customer list to Ram  
10 Water.

11 Q. Spell that.

12 A. R-a-m, Ram Water.

13 Q. R-a-m Water. And when did this sale  
14 occur of Manhattan Water Company?

15 A. I think late 2008, early 2009.  
16 Right around then.

17 Q. Okay. Was there a gap between the  
18 sale of Manhattan Water Company and the formal  
19 establishment of TYR?

20 A. Yes.

21 Q. Okay. What kind of a gap was there?

22 A. About a year.

23 Q. About a year. And what were you  
24 doing during that period?

25 A. Nothing.

1 M. M. Dushey

2 water business -- strike that.

3 You said that you started the TYR  
4 Water Company because of the eco bottle; am I  
5 correct? That's not what this is that I'm  
6 pointing to, but because of the bottle?

7 A. I didn't understand the question.

8 Q. Your site refers to an eco bottle,  
9 your web site for TYR Water Company and you  
10 just told me that the reason you started TYR,  
11 if I'm correct, is because this bottle is going  
12 to outlast us all. I'm pointing to a bottle of  
13 another manufacturer's water. I'm assuming  
14 that you're referring to the plastic in that.

15 A. And the question is?

16 Q. What gave you the idea to start a  
17 water company that was focused on the bottle?

18 A. To do a green bottle.

19 Q. Okay. And where did you get the  
20 technology for the green bottle?

21 A. I don't understand the question.

22 Q. Well, what makes your bottle green?

23 A. Because it biodegrades.

24 Q. Okay. Do you manufacture the  
25 biodegradable bottle?

1 M. M. Dushey

2 Q. Okay. Tell me. Tell me what they  
3 are.

4 A. I don't see the question here. I'm  
5 not understanding.

6 Q. This is not part of God's natural  
7 work.

8 A. Correct.

9 Q. Somebody had to physically create  
10 this bottle.

11 A. Yeah, well, I don't own the  
12 machinery that makes all that. So I guess I  
13 wouldn't manufacture them. If I don't  
14 manufacture --

15 Q. Who owns the machinery that makes  
16 the bottle?

17 A. There's about ten different  
18 companies.

19 Q. Ten different companies. And they  
20 sell the bottle to you?

21 A. No.

22 Q. No. How do you get the bottle from  
23 them?

24 A. I assemble the bottle with different  
25 manufacturers.

1 M. M. Dushey

2 Q. It doesn't matter. You have to  
3 answer the question.

4 A. Which manufacturer do you want to  
5 know about?

6 Q. I don't know who your manufacturers  
7 are. I'm asking you --

8 A. I'm asking you to explain to me  
9 which part of the bottle, of the manufacturer  
10 do you want to know about?

11 Q. Mr. Dushey, let me explain to you if  
12 you do not --

13 A. It's Dushey.

14 Q. Mr. Dushey, if you do not answer  
15 questions here today --

16 A. I'm here to answer.

17 Q. -- there are sanctions that can be  
18 entered against you including simply losing the  
19 case outright. Asking you who your  
20 manufacturer is for the bottle is entirely  
21 relevant to this proceeding.

22 A. And I don't understand the question.

23 Q. You just said to me that there are a  
24 number of manufacturers for the bottle. I said  
25 name some of them.

1 M. M. Dushey

2 correctly, they turn them from your materials  
3 into a bottle.

4 A. Let me correct that. Materials that  
5 I purchase.

6 Q. Ah, okay. Materials that you  
7 purchase. And that material that you purchase,  
8 would it be incorrect for me to call that  
9 material plastic?

10 A. Somewhat.

11 Q. Okay. Is there another term I  
12 should use in referring to that?

13 A. Bioplastics.

14 Q. Bioplastics. Okay. That material,  
15 the bioplastics that you purchase, where do you  
16 get the bioplastics from?

17 A. Enso.

18 Q. E-n --

19 A. S-o.

20 Q. -- s-o Manufacturing, is that --

21 A. Um-hmm. Yes.

22 Q. Okay. And are they located in the  
23 tri-state area?

24 A. No.

25 Q. Where are they located?

1 M. M. Dushey

2 Q. Okay. What is a preform?

3 A. A bottle before a bottle.

4 Q. When you say a bottle before a  
5 bottle, is that the form that they put the  
6 material into to kind of mold it into shape?

7 A. I don't understand the question.

8 Q. Is a preform some sort of a cast, if  
9 you will, that the bioplastic is put into --

10 A. Correct.

11 Q. -- to form it into the shape that  
12 you want?

13 Okay. How did you first make  
14 contact with Enso Manufacturing?

15 A. How did I make contact? I don't  
16 understand.

17 Q. How did you first become aware of  
18 them?

19 A. Networking.

20 Q. Networking. So you had in your mind  
21 to create kind of a green bottle, if you will,  
22 and you researched for a bioplastic  
23 manufacturer?

24 A. I've been researching the green  
25 bottle since the inception of bioplastics.

1 M. M. Dushey

2 Q. Where did you come up with the name  
3 for TYR Water Company?

4 A. It just came to me.

5 Q. It just came to you?

6 A. (Nodding).

7 Q. You were sitting in a room and the  
8 name popped into your head?

9 A. Just tears in the sky.

10 Q. I'm sorry?

11 A. Tears of the sky.

12 Q. Tears of the sky?

13 A. Yeah.

14 Q. Tears like coming down --

15 A. From clouds, raindrops.

16 Q. Tears. Okay. Why did you spell it  
17 the way you did? Instead of t-e-a-r-s, why did  
18 you spell tear t-y-r?

19 A. It's more catchy.

20 Q. How did you come up with that? How  
21 did you come up with that lettering?

22 A. Because if you don't spell it e-a-r,  
23 the Y replaces the ear in tear.

24 Q. So this was --

25 A. As well as we got the idea that

1 M. M. Dushey

2 Q. And what happened?

3 A. Just while playing around online it  
4 came up.

5 Q. And what were you -- do you remember  
6 what you were typing in, what you were playing  
7 around with that you ended up with the T-y-r?

8 A. No, I don't recall.

9 Q. So you were playing around and you  
10 got some search result that came up with T-y-r?

11 A. I don't recall the searching  
12 online --

13 Q. Well, you said --

14 A. -- because I'm on my computer a lot,  
15 always online. So to think about a specific  
16 moment of when something happened online, I  
17 don't recollect it.

18 Q. But without referring to the exact  
19 date and moment, which I can understand most of  
20 us would not remember, but you were online, is  
21 that correct, when this happened? You came  
22 across the name online; is that correct?

23 A. No, I did not come across the name  
24 online. I came across the name in my head from  
25 tears of the sky. I said we needed water.



1 M. M. Dushey

2 it's not a catchy name for water, t-e-a-r.

3 Q. Right. But how did --

4 A. That how do I replace the e-a.

5 Q. Yep.

6 A. I replaced it with a Y and spelled  
7 it T-y-r.

8 Q. And when did you come across the  
9 meaning of the term as an Icelandic God?

10 A. Oh, later on after we filed our  
11 trademarks.

12 Q. After you filed your trademarks was  
13 the first time you came across --

14 A. Yeah, we started researching it  
15 online after I got my paperwork back and I  
16 started doing the research.

17 Q. And what did you determine -- when  
18 did you start researching this, how long after  
19 you filed your application?

20 A. Once we got back the search results  
21 and William Cox gave me a book of search  
22 results, something like that.

23 Q. William Cox is your former attorney  
24 in this case?

25 A. Yeah.

1 M. M. Dushey

2 Q. Okay. He didn't give you anything  
3 in writing?

4 A. A book, a binder.

5 Q. Just the book, but he didn't give  
6 you a written letter from himself?

7 A. I don't recall.

8 Q. You don't recall if it was just  
9 verbal?

10 A. I'm saying I don't know right now.

11 Q. Yeah, okay.

12 A. It could be there.

13 Q. Okay. He said there were no issues.  
14 Okay.

15 And then so after you got the book,  
16 which you didn't read, then you started  
17 researching online, am I correct, and that's  
18 when --

19 A. It wasn't specific research. I  
20 started playing around with the name TYR to see  
21 what was going on.

22 Q. Just playing around. Okay.

23 A. Yeah. I don't think we had even  
24 launched the web site at that time.

25 Q. Why were you playing around with the

1 M. M. Dushey

2 Q. Right, and so what did you want to  
3 see by looking online? What were you looking  
4 for?

5 A. Names.

6 Q. What do you mean names?

7 A. Web site names.

8 Q. Are you looking for other -- you're  
9 saying other people who use similar names? Is  
10 that what you were looking for?

11 A. No, I was looking to see our names,  
12 what we were going to do with it. I started  
13 researching and developing how we were going to  
14 call it. Were we going to call it TYR, were we  
15 not.

16 Q. But you had already selected the  
17 mark when you filed the trademark application  
18 or had you not done that?

19 A. When I filed for the company, okay,  
20 it was very up in the air.

21 Q. What was very up in the air, the  
22 company or the name?

23 A. The name.

24 Q. The name.

25 A. And the company and the whole idea.

1 M. M. Dushey

2 A. Um-hmm.

3 Q. Did you ever just do TYR?

4 A. No.

5 Q. Then how did you find the Norse God?

6 A. It just came up.

7 Q. It just came up when you put in --

8 A. As we kept going from page to page  
9 to page on Google.

10 Q. And the terms you searched were TYR  
11 Water?

12 A. TYR natural spring water.

13 Q. TYR natural spring water.

14 A. TYR Water.

15 Q. TYR Water. Anything else?

16 A. No.

17 Q. And the God came up at that point?

18 A. Later on the God came up because I  
19 have an Icelandic friend I think that mentioned  
20 it is how, if I recall, how we ran into the  
21 Icelandic God. It's an Icelandic God; am I  
22 right?

23 Q. I don't know.

24 A. I don't know. You just mentioned --

25 Q. Well, you said he was Icelandic.

1 M. M. Dushey

2 A. Yeah. I'm usually in rooms with  
3 lots of people discussing a lot of networking  
4 and I'm around a lot of people.

5 Q. Okay. Do you know a person named  
6 Craig Dushey?

7 A. No.

8 Q. Okay. Have you ever engaged in any  
9 formal athletic sports, I mean team sports for  
10 schools or other associations?

11 A. Maybe in elementary school I played  
12 baseball.

13 Q. Okay. Any of your parents involved  
14 in team sports?

15 A. Nope.

16 Q. Your siblings?

17 A. Nope.

18 Q. Nope. Any swimmers in your family?

19 A. Nope.

20 Q. Cousins?

21 A. Nope.

22 Q. No. Any of your family doctors?

23 A. Nope.

24 Q. Okay. Any of your family ever

25 volunteer at any of the various marathons

1 M. M. Dushey

2 no.

3 Q. Does Manhattan Water Company  
4 currently exist?

5 A. Only as a web site.

6 Q. Only as a web site.

7 A. It's a portal for business.

8 Q. It's a portal for business. So  
9 is --

10 A. It doesn't generate revenues.

11 Q. What do you mean it doesn't  
12 generate -- when you say it, what do you mean,  
13 the company or the web site?

14 A. The web site. There is no company.  
15 It's just a web site that directs business.

16 Q. Okay. So when people -- is TYR  
17 Water advertised on the Manhattan Water Company  
18 web site?

19 A. As of last week, yes, or two weeks  
20 ago I think it was.

21 Q. Um-hmm. How long has it been  
22 advertised there?

23 A. Two weeks.

24 Q. Just two weeks?

25 A. Yeah.

1 M. M. Dushey

2 business.

3 Q. What do you mean it generates  
4 home/office business?

5 A. Leads. It generates home/office  
6 leads, which are given to a company.

7 Q. Given to which company?

8 A. CDC.

9 Q. And who is CDC?

10 A. They're a coffee company that do  
11 home/office delivery business that distribute  
12 TYR.

13 Q. And does CDC then purchase the TYR  
14 from you?

15 A. Correct.

16 Q. Once the bottle is created, where do  
17 you get the water from to put in the TYR Water  
18 bottle?

19 A. From a bottling source.

20 Q. What's the bottling source?

21 A. We use different sources.

22 Q. Okay.

23 A. Nirvana Spring Water.

24 Q. Nirvana?

25 A. Nirvana Spring Water.

1 M. M. Dushey

2 spring that's under the bottling plant; is that  
3 correct?

4 A. Or off a mile. I don't know. It's  
5 on the property.

6 Q. It's on the property. Okay.

7 A. You would have to contact Nirvana to  
8 find out the specifics on where their spring is  
9 located.

10 Q. And they put the water in the  
11 bottle?

12 A. Correct.

13 Q. And then you have -- do you drive a  
14 truck and go up and get it?

15 A. I have a trucking company.

16 Q. You have a trucking company that  
17 goes and gets the --

18 A. I hire a third-party distribution  
19 company to go pick it up and deliver it where  
20 it needs to go.

21 Q. Okay. And when you say deliver it,  
22 are you delivering it directly -- does the  
23 trucking company deliver it directly to  
24 consumers or is there --

25 A. To distributors.



1 M. M. Dushey

2 A. Upstate New York.

3 Q. Upstate New York. Is TYR Water  
4 distributed only within New York?

5 A. Correct.

6 Q. Is it also distributed in  
7 New Jersey?

8 A. Not currently.

9 Q. Is it distributed to college  
10 campuses?

11 A. Not currently. It could. I don't  
12 know. I don't know where product goes after it  
13 hits distributors. Distributors sell as well.  
14 So I don't know where the product could always  
15 end up.

16 Q. You don't know where the product  
17 goes?

18 A. Yeah, but I know what distributors  
19 handle certain areas. I know they handle  
20 New York.

21 Q. Okay. So you would know if  
22 somebody -- you would know if your product was  
23 in Illinois, for example, or would you just not  
24 know that?

25 A. I would know that.

1 M. M. Dushey

2 own our own trucks. We don't do any of that.

3 Q. Any other distributors you can  
4 mention? CDC, Regional Access. Do you have  
5 any others?

6 A. Yeah, Ace Natural.

7 Q. Ace. And where do they distribute?

8 A. New York.

9 Q. What kind of businesses -- strike  
10 that.

11 What kind of customers do these  
12 distributors deliver to?

13 A. Health food stores.

14 Q. Health food stores. What else?

15 A. Home and office.

16 Q. Homes, offices.

17 A. And retailers, food and beverage  
18 retailers.

19 Q. Grocery stores?

20 A. Yeah.

21 Q. Students? Do you deliver to -- do  
22 they deliver to students?

23 A. I don't believe so.

24 Q. Okay. Who's in your company -- I  
25 just want to get this clear. You're the sole

1 M. M. Dushey

2 the trademark application.

3 Q. Around the time. Just to refresh  
4 your memory, you filed for your word mark in  
5 March, March 10th of 2010, and you filed for  
6 your design application April 13th, 2010.

7 A. So it would be prior to that.

8 Q. Between those two dates or prior to  
9 both of those dates?

10 A. I would say that the design was done  
11 when the word mark -- the design was already  
12 done when the word mark was done.

13 Q. Okay.

14 A. That was already done. Then we --  
15 we basically -- Will, the lawyer, said we  
16 should file for the design I believe it was.  
17 So I said file the design.

18 Q. Okay. Who did the artistic  
19 rendering of the design on paper? Who created  
20 that logo in that sense?

21 A. His name is Noah, if I recall.

22 Q. Does he have a company?

23 A. No, he's a freelancer.

24 Q. Noah McDonough?

25 A. Yeah.

1 M. M. Dushey

2 Q. What was he doing at the time that  
3 you hired him?

4 A. Freelance.

5 Q. He was freelancing?

6 A. Yeah. From what I believe. From  
7 what I know. To the best of my knowledge.

8 Q. Now, when you created that design,  
9 did you go to him with the design of the three  
10 leaves? Is that what it is, it's leaves, the  
11 three colors?

12 A. The three colors was a collaboration  
13 between us both.

14 Q. Okay. What did you tell him when  
15 you first met with him about what you  
16 envisioned for this design?

17 A. I don't recall.

18 Q. How did you collaborate together on  
19 this then?

20 A. We sat down together and  
21 collaborated.

22 Q. Well, you mentioned three ideas.  
23 There were three concepts; earth, water and  
24 green. Do you remember if that was your idea  
25 or if that was his?

1 M. M. Dushey

2 A. Yeah, one looked like pipes.

3 Q. Pipes?

4 A. Pipes.

5 Q. That you smoke?

6 A. No.

7 Q. No. What kind of pipes?

8 A. Water pipes.

9 Q. Oh, water pipes. Okay. I was like  
10 that doesn't sound like earth, water and green.

11 Okay. Water pipes. Another one?

12 A. That was really it. Pipes with  
13 leaves growing on them.

14 Q. Pipes with leavings growing on them.

15 A. Right, it does sound a little...

16 Q. Did you come to him and say I want  
17 like kind of a green concept? Is that why  
18 he -- something like that so that he got the  
19 idea that you wanted it to be tied into  
20 ecology?

21 A. I said the bottle is going to be  
22 biodegradable.

23 Q. So you gave him that information?

24 A. (Nodding).

25 Q. And then from there he worked up

1 M. M. Dushey

2 Q. And that's the sole information you  
3 relayed to him?

4 A. Correct.

5 Q. That's it. Did you say to him I  
6 want it to have the feeling of earth, water and  
7 green?

8 A. Yes.

9 Q. Okay. Did you say that to him  
10 before he came up with the water pipes with the  
11 leaves coming out?

12 A. The pipes was representing -- he was  
13 going off of Manhattan Water Company thinking  
14 Manhattan. He came up with underground pipes  
15 and then he thought leaves and stuff like that  
16 is what I believe that first inception was just  
17 to get it correct for the record. It has  
18 nothing to do with maybe what you're leading  
19 to, if that answers your question.

20 Q. Okay. So then when you rejected the  
21 pipes with leaves, what led him from the pipes  
22 with leaves to the three-leaf concept?

23 A. I said earth, water and green.

24 Q. So at that time you stepped in and  
25 said I want earth, water and green; is that

1 M. M. Dushey

2 research that.

3 Q. Do you have any -- when you say  
4 you're going to research that, do you have any  
5 documents that he gave you with the designs?

6 A. I don't remember him giving me  
7 anything. I remember discussions. I'm just  
8 going back. It was just very -- let me think  
9 about it.

10 (Pause on the record.)

11 A. What was your question again?

12 Q. Were there any other designs that  
13 you rejected?

14 A. I think he discussed some designs  
15 with me. He was discussing what he wanted to  
16 do, discussing ideas as to save time.

17 Q. So he only -- am I correct he only  
18 showed you one design prior to the three-leaf  
19 design that --

20 A. It's not a three-leaf design.

21 Q. What is it?

22 A. It's a globe representing the earth,  
23 it's a drop of water and it's a leaf.

24 Q. So should I refer to that as the  
25 globe, water, leaf design?

1 M. M. Dushey

2 Q. And he would show you something in  
3 hard copy or would he show it to you on a  
4 computer?

5 A. On a computer.

6 Q. On a computer. To the best of your  
7 recollection has Noah McDonough ever worked for  
8 someone other than himself?

9 A. I would have no idea.

10 Q. You don't know. Okay. Why did you  
11 decide to adopt a design at all instead of just  
12 using a word mark?

13 A. Doesn't every company need a logo?

14 Q. I don't know.

15 A. I think so.

16 Q. You think they should have a logo?

17 A. (Nodding).

18 Q. Why?

19 A. Representation.

20 Q. What do you mean? I don't  
21 understand what you mean by representation.

22 A. Convey a message.

23 Q. To convey a message?

24 A. (Nodding).

25 Q. Wouldn't the word mark just convey a



1 M. M. Dushey

2 water? Is that your testimony?

3 A. I guess in my head. Tear from the  
4 clouds, pure, pure water, tear.

5 Q. Do you think consumers understand  
6 T-y-r to convey the meaning of tears from the  
7 sky?

8 A. Included with our mark, with the  
9 design mark, yes.

10 Q. You just told me that the design  
11 mark was a globe and it was water and a leaf.  
12 I don't --

13 A. A water drop.

14 Q. A water drop?

15 A. In the middle that looks like a  
16 teardrop, water drop and a leaf. It's a drop  
17 of water.

18 Q. Okay.

19 (Interruption by the court  
20 reporter.)

21 MS. CALCAGNO: We can take a break  
22 right now.

23 (Recess taken.)

24 BY MS. CALCAGNO:

25 Q. How many fluid ounces does a bottle

1 M. M. Dushey

2 bottle, 16.9 ounce that is sold at retail? Do  
3 you know the retail price?

4 A. It can range anywhere from -- I mean  
5 anything over cost. It could be a buck to a  
6 buck fifty.

7 Q. Okay. Do you want us to take  
8 another break so you can finish your cell  
9 phone?

10 A. No, no. I'm with you. I'm  
11 totalling listening.

12 Q. Okay. I'd appreciate it, this is an  
13 important legal proceeding, if you could --

14 A. I'm with you.

15 Q. If you need to make a communication  
16 with somebody else, go ahead, but we'll stop  
17 the proceeding.

18 A. Okay.

19 Q. Could you stop, please.

20 A. It's stopped.

21 Q. Okay. Thank you.

22 Okay. So a buck to a buck fifty at  
23 retail. How much do you offer the cases for,  
24 24 bottles per case?

25 A. It depends on the situation. It

1 M. M. Dushey

2 spent that on?

3 A. Free product.

4 Q. Oh, giving away free products?

5 A. Um-hmm. Yes.

6 Q. What else?

7 A. Samples to customers.

8 Q. Anything else?

9 A. Not that I recall.

10 Q. Do you recall your attorney  
11 preparing Answers to Interrogatories in this  
12 case?

13 A. Yes.

14 Q. Did you supply him with the  
15 information for those answers?

16 A. I believe so.

17 MS. CALCAGNO: Okay. I'm going to  
18 hand to the court reporter and ask her to  
19 mark as Opposer's Exhibit 3 Mr. Dushey's  
20 Responses and Objections to Opposer's First  
21 Set of Interrogatories No. 1 through 21.

22 A. That's to the best of my knowledge  
23 though also.

24 (Opposer's Exhibit 3, Applicant's  
25 Responses and Objections to Opposer's First

1 M. M. Dushey

2 A. Um-hmm.

3 Q. What does the response state?

4 Please read that.

5 A. "\$20,000 for point of sale materials  
6 for retailers and distributors that carry,  
7 distribute or sell applicant's water product."

8 Q. Okay. So when you said maybe  
9 \$10,000, were you incorrect?

10 A. To the best of my knowledge one of  
11 the reasons why I got rid of my lawyer was  
12 because of his lack of knowledge.

13 Q. Is this incorrect, this answer?

14 A. To the best of my knowledge we never  
15 did any marketing as far as billboards, TV,  
16 anything of that nature. It's all in goods, in  
17 products, in samples. Point of sale materials.  
18 Handouts to them wrapped in a sample box.

19 From inception of the company til  
20 today, once again to the best of my knowledge  
21 I'm thinking -- I said \$10,000. If you want to  
22 say \$20,000 right here, I think 20,000 is even  
23 pushing it way too high.

24 Q. As you sit here today what would you  
25 suggest is the correct, \$10,000?

1 M. M. Dushey

2 A. Well, I would have handed out 500  
3 shelf talkers if I would have had 500 accounts  
4 because I tell my distributors every time you  
5 get a customer, hand out a shelf talker.

6 Q. One shelf talker per customer or are  
7 you giving more?

8 A. We give him one or however many he  
9 wants.

10 Q. When you say number of accounts you  
11 have, what are you referring to, the number of  
12 distributors that you have?

13 A. When I say accounts we have, I would  
14 say stores that carry TYR.

15 Q. If a person speaking in retail says  
16 the number of doors we have, do you understand  
17 what that means?

18 A. No.

19 Q. Have you ever heard that before?

20 A. No.

21 Q. So the number of accounts is the  
22 number of stores where the product is  
23 distributed?

24 A. Okay.

25 Q. Is that correct? Is that what

1 M. M. Dushey

2 Q. And when you say in New York, do you  
3 mean you have more distributors elsewhere and  
4 only three --

5 A. No, we only distribute in New York.

6 Q. If you would refer to page six of  
7 these interrogatories. Page six. Go to the  
8 response to Interrogatory No. 4. Could you  
9 read that response into the record, please.

10 A. "See response to Interrogatory  
11 No. 2. Applicant has sold or distributed its  
12 products in the States of New York and  
13 New Jersey ness. Where have products been  
14 sold??"

15 Q. As you sit here today is it correct  
16 that the products have been sold or distributed  
17 in both New York and New Jersey?

18 A. For one month we had a distributor  
19 in the beginning in New Jersey which we closed.  
20 So we only distribute in New York.

21 Q. Okay.

22 A. As of today.

23 Q. As of today.

24 What is the amount of sales that  
25 your company has enjoyed of the TYR Water?

1 M. M. Dushey

2 other states?

3 A. We never applied.

4 Q. You never applied. Okay. Did you  
5 ever apply for any kind of licensing with  
6 respect to the right to sell water?

7 A. I don't recall right now.

8 Q. Did you ever have an attorney look  
9 into whether you were required to obtain  
10 licensing to sell water?

11 A. I don't believe you need a license  
12 to sell water in the State of New York. To  
13 bottle water you need a license.

14 Q. Do you know if there are any  
15 government regulations governing the labeling  
16 of water?

17 A. Yes, there are.

18 Q. Okay. What are they?

19 A. I don't recall. You'd have to look  
20 it up.

21 Q. Do you know if you're in full  
22 compliance with those?

23 A. Full compliance.

24 Q. Did you have an attorney review that  
25 to ensure that you were in full compliance?

1 M. M. Dushey

2 question?

3 A. I don't understand the question.

4 Q. Are there any regulations regarding  
5 the labeling or bottling of water?

6 A. There are regulations.

7 Q. Besides just the State of New York  
8 approving the label, are there any other  
9 regulations?

10 A. Yes. They have to approve the  
11 bottling plant.

12 Q. Anything else?

13 A. Not that I recall right now.

14 Q. Okay. You mentioned that the  
15 Manhattan Water Company had water coolers I  
16 believe; is that correct?

17 A. They used to sell water coolers and  
18 rent water coolers.

19 Q. Yes. Does your company do that?

20 A. TYR?

21 Q. TYR.

22 A. No.

23 Q. So the sole product it presently  
24 offers is the bottles of water?

25 A. One size, one case, 16.9 ounce, 24



1 M. M. Dushey

2 colleges and universities?

3 A. Yes.

4 Q. Who?

5 A. I'm not sure exactly. I would think  
6 that they do. It's part of the food service  
7 industry. Everyone drinks water, even kids and  
8 students in college and inside the universities  
9 they do have cafeterias.

10 Q. And what happens in those  
11 cafeterias?

12 A. People eat and drink.

13 Q. And are you stating that they drink  
14 bottled water in those cafeterias?

15 A. I'm not sure if it's mine, but I  
16 know they drink water.

17 Q. Okay. Do you have any limitations  
18 on your distributors on where they can sell the  
19 product? Do you impose any limitations on  
20 where they're allowed to sell the product  
21 geographically?

22 A. In the State of New York, yes.

23 Q. You require them only to sell in the  
24 State of New York?

25 A. I don't require them only to sell in

1 M. M. Dushey

2 Q. Okay. Were you named as the  
3 defendant in the suit or the plaintiff?

4 A. I don't recall. It was a while ago.

5 Q. You don't recall whether you were  
6 the plaintiff or the defendant?

7 A. Defendant I guess. Somebody suing  
8 me.

9 Q. Suing you?

10 A. Yeah.

11 Q. Was this in New York?

12 A. Um-hmm. Yes.

13 Q. Was it over a contract?

14 A. I'd like to...

15 Q. I just want to know if it was  
16 contractual. Do you know what I mean if I say  
17 contractual?

18 A. I object to the whole -- what does  
19 it have to do with anything? It's my personal.  
20 So I object to everything.

21 Q. Your objection is noted. Was it a  
22 contractual dispute?

23 A. I don't recall. It was a long time  
24 ago.

25 Q. You don't recall why you were sued?

1 M. M. Dushey

2 Manhattan Water Company. I thought you were  
3 talking about the TYR web site.

4 Q. I'm talking about the domain names  
5 for TYR. Why did you register them in the name  
6 of Manhattan Water Company?

7 A. I didn't register them in the name  
8 of Manhattan Water Company.

9 Q. No?

10 A. Not that I recall. To the best of  
11 my knowledge.

12 It could be -- actually you know  
13 what, when you say register, you mean  
14 physically going out and assigning the name?  
15 David Stachover at Web Scope might have  
16 actually gotten the names for me. That's why  
17 if it says Manhattan Water Company, it might  
18 say that just for his reference.

19 Q. Who is this?

20 A. He's the owner of Web Scope.

21 Q. And what's his name?

22 A. David.

23 Q. David.

24 A. Stachover.

25 Q. Stachover. Okay. At Web Scope.

1 M. M. Dushey

2 objections, applicant states that it developed  
3 its mark in July 2010."

4 Q. Okay. I'm going to represent to you  
5 that you filed your application to register TYR  
6 as a trademark in March of 2010.

7 A. Okay.

8 Q. Do you believe as you sit here today  
9 that July 2010 is when you developed your mark?

10 A. No.

11 Q. Okay. When would --

12 A. I developed it before.

13 Q. Okay. As you sit here and review  
14 this date, July 2010, does that lead you to any  
15 further memory as to when you may have  
16 developed your mark?

17 A. I would have to research it. Not to  
18 the best of -- to the best of my knowledge  
19 right now, the mark was designed before we  
20 filed this application.

21 Q. Makes sense. Right. Do you have  
22 any recollection why your attorney would have  
23 given the July month?

24 A. Why did I fire him.

25 Q. Well, what I'm asking is was it

1 M. M. Dushey

2 A. I'm not very good at remembering all  
3 the dates and everything. I'm terrible with  
4 that.

5 Q. Most people are.

6 What leads you to believe that those  
7 might be the dates? Was it Christmastime that  
8 you're remembering or --

9 A. No, I don't celebrate Christmas, but  
10 no, but I remember it happening just before  
11 then, a few months before that, right before we  
12 filed.

13 Q. Okay. Was that correct for the word  
14 mark as well, would it be three months, about  
15 three months before?

16 A. The name -- yeah, it all came  
17 together maybe three, four months before I  
18 think it is.

19 Q. So when you say came together, you  
20 were working on it sometime prior to December  
21 or January?

22 A. No, it came pretty fast.

23 Q. Pretty fast. Okay. You came up  
24 with the name, came up with the design and --

25 A. Yeah, it was let's more forward on

1 M. M. Dushey

2 called initial disclosures? Do you remember a  
3 conversation about that?

4 A. Not at the moment.

5 Q. Okay. Did you ever have -- prior to  
6 the commencement of this opposition proceeding,  
7 did you ever have any communications with --  
8 strike that. Okay. So the waiver, estoppel.

9 One of the things that is mentioned  
10 in your affirmative defenses is that you state  
11 that there's no likelihood of confusion between  
12 opposer's marks and your marks. Can you  
13 explain why you believe there's no confusion?

14 A. I believe in the marks -- in which  
15 mark? In the design mark or the word mark?

16 Q. Both, that there's no confusion.

17 A. I believe that there's no confusion,  
18 one, in the design mark aside from looking  
19 entirely different, number one.

20 Number two, entirely different  
21 products, different categories, and in no place  
22 is -- they're not even distributed on the same  
23 line of distribution. They're not even  
24 manufactured in the same areas of manufacturing  
25 and they're not even sold in the same areas of

1 M. M. Dushey

2 as of this date.)

3 Q. I'm going to represent to you,  
4 Mr. Dushey, that the bottom logo is a logo that  
5 TYR Sport, as you call them, has used many  
6 years in advance of your filing. Do you have  
7 any explanation as to how both logos have  
8 similar features?

9 A. I've never even seen this logo and I  
10 don't believe -- this looks pretty similar to a  
11 knockoff to my logo, to be honest with you. It  
12 looks like something that you guys just worked  
13 up.

14 Q. Would you be upset if you found out  
15 that this was a logo that we worked up after  
16 you created your logo?

17 A. No, I wouldn't be upset at all.

18 Q. No?

19 A. Why should I be upset?

20 Q. Do you agree that there's  
21 similarities?

22 A. Besides the color and t-y-r, no.

23 Q. There are no similarities in color?

24 A. In color I just said.

25 Q. Color. What about the three

1 M. M. Dushey

2 circular teardrop and then the leaf?

3 A. I said put earth, water and green.

4 Q. And you told him to do that?

5 A. That the earth represents circle.

6 He did that, he put a circle, and then he put

7 water as a teardrop and then he put a leaf.

8 Q. So he just followed your

9 instructions?

10 A. Correct.

11 Q. And as you sit here today --

12 A. My direction.

13 Q. Your direction. -- you want us to  
14 believe that you've never seen this logo below  
15 it?

16 A. I've never seen this logo below it.

17 Q. Let's look at TYR for Charity.

18 MS. CALCAGNO: I'm going to hand the  
19 court reporter a copy of TYR Sport's First  
20 Set of Admission Requests and ask her to  
21 mark this as Opposer's Exhibit 5.

22 (Opposer's Exhibit 5, TYR Sport's  
23 First Set of Admission Requests, is marked  
24 for identification as of this date.)

25 Q. Mr. Dushey, if you would turn to --



1 M. M. Dushey

2 Q. Okay. Did your company advertise  
3 that it was going to be donating and  
4 participating in Race for the Kids?

5 A. No, we never advertised -- if you  
6 call this advertising, this was something that  
7 you could call -- we never advertised. It was  
8 actually something that never happened.

9 Big Brothers and Big Sisters  
10 approached us to donate water to their race for  
11 the cure where the kids run on the Upper West  
12 Side and we actually never ended up doing it  
13 and that page came down and there was no  
14 advertisements whatsoever and we did not donate  
15 water.

16 Q. This is actually quite a good thing,  
17 giving bottled water --

18 A. Oh, yes.

19 Q. -- to Race for the Kids, right?

20 A. 100 percent.

21 Q. Okay. My sense is you're getting --  
22 I don't think there's anything wrong with this.  
23 I think there's something very nice about doing  
24 this.

25 How did this come about again? What

1 M. M. Dushey

2 we like to give charity and we like to give  
3 cases of water to people. So it starts a trend  
4 of giving.

5 Q. But why wouldn't you just give and  
6 not have to let people know on your web site  
7 about that?

8 A. Because the more we let people know  
9 we give, the more they call and ask us to give.

10 Q. So you post content on your site in  
11 order to be asked to give more?

12 A. For people that are interested in  
13 getting water for their events.

14 Q. Okay. When were you first contacted  
15 by Race for the Kids?

16 A. I don't recall.

17 Q. The race was scheduled to be  
18 September 25th, 2010. Does that help refresh  
19 your recollection?

20 A. It was a few months prior to that.

21 Q. Okay. When did you decide not to?

22 A. When they upped the amount of water  
23 and we couldn't produce that water for them.

24 Q. And when did that happen?

25 A. Maybe about a month prior I think or

1 M. M. Dushey

2 A. The most recent I would have to say  
3 was a restaurant asked us for some water.

4 Q. You mentioned the Food Network?

5 A. No, I mean like within the food  
6 network, not the Food Network television show.

7 Q. Oh, okay. A food network. Okay. A  
8 restaurant asked you for water --

9 A. Yeah.

10 Q. -- as a charitable cause?

11 A. Yeah, for their event.

12 Q. What event were they holding?

13 A. I forgot exactly what it is. I  
14 didn't go.

15 Q. Anything else?

16 A. No, just little things like that.  
17 Recently we haven't been asked by -- we haven't  
18 gotten involved in any big major events.

19 Q. Well, even little events. Do you  
20 remember any you've done other than that  
21 restaurant in the past?

22 A. Maybe a little restaurant before  
23 that, little foody events.

24 Q. Have you ever participated in a race  
25 yourself?

1 M. M. Dushey

2 Do you recognize this page?

3 A. I do.

4 Q. And what is it? Just read it into  
5 the record for the Board so they know what page  
6 we're talking about.

7 A. It's the home page.

8 Q. And what does it say on it?

9 A. "TYR 100 percent eco" -- actually  
10 "TYR Return to Nature, 100 percent eco  
11 friendly, 100 percent biodegradable, 100  
12 percent natural spring water."

13 Q. Okay. And would you turn the page,  
14 please, and what is the heading on this in  
15 green?

16 A. Eco Bottle.

17 Q. Okay. Could you read the second  
18 sentence on that page?

19 A. "The TYR eco bottle is made with a  
20 patented blend of natural organic material that  
21 allow bacteria found in landfills, oceans and  
22 other environments to break our bottles down  
23 naturally."

24 Q. How do you know that?

25 A. How do we know this? Because the

1 M. M. Dushey

2 nature on its own."

3 Q. You're saying it's the only bottle.

4 "Our bottle is the only bottle."

5 A. "Our bottle is the only bottle that  
6 will actually break down and return to nature  
7 on its own."

8 Q. My question is --

9 A. That is our opinion. I don't know  
10 from that date forward. I believe we were one  
11 of the first few people to use Enso.

12 Q. Okay. Does Enso sell their bottles  
13 to other people?

14 A. They don't sell bottles. They sell  
15 material and people can do whatever they want  
16 with the material.

17 Q. So it's possible that they're  
18 selling the material to other bottlers?

19 A. Oh, they are now.

20 Q. So they are selling the material to  
21 other bottlers?

22 A. Oh, yeah. They've expanded.

23 Q. Okay. Let's go to the next  
24 paragraph. "The TYR eco bottle is made with a  
25 patented blend of natural organic material."

1 M. M. Dushey

2 break our bottle down, they pass it (they go  
3 number two) as an enriched soil serving as  
4 fertile earth. This process occurs over a 5-15  
5 year period without help from composting  
6 facilities."

7 Again, do you agree that this is  
8 what this page states?

9 A. Yes.

10 Q. Where did you get the information  
11 for this?

12 A. Enso.

13 Q. Is it Ensay or Enso?

14 A. Enso.

15 Q. E-n-s-o?

16 A. E-n-s-o.

17 Q. Okay. If you could -- instead of  
18 reading this last paragraph, if you could just  
19 take a look at it and confirm that this is  
20 content that appeared on your web site.

21 A. Yes.

22 Q. Okay. And, again, how did you know  
23 that this information was true?

24 A. I seen the tests from Enso.

25 Q. The tests from Enso?

1 M. M. Dushey

2 Q. Was this a picture of your product  
3 at that time?

4 A. Yes.

5 Q. Okay. Who created the actual label?

6 A. I did.

7 Q. You manufactured the label?

8 A. No, I had a manufacturer print it up  
9 for me, the people that print the label.

10 Q. If I say do you do something, I'm  
11 asking if TYR Water does something as opposed  
12 to asking for or paying somebody else to do it.

13 So who actually -- who do you pay to  
14 produce that label?

15 A. We had a label company that does  
16 that for us.

17 Q. And what was their name?

18 A. DWS.

19 Q. DWS?

20 A. Um-hmm.

21 Q. Is that their full name?

22 A. I believe so.

23 Q. And where are they located?

24 A. In New York.

25 Q. In New York. And do you have any

1 M. M. Dushey

2 A. All design is done in-house by TYR.

3 Q. Okay. So you --

4 A. They don't do any design.

5 Q. They don't do any design. So if you  
6 would look at the page. You see that blue at  
7 the bottom and the green?

8 A. Um-hmm.

9 Q. Was that something that you did  
10 in-house?

11 A. Um-hmm. Yes.

12 Q. That was you?

13 A. Yes.

14 Q. You personally?

15 A. Yes.

16 Q. Okay. Is Enso the only name for  
17 that company or do you know if it has any other  
18 company names?

19 A. I'm not sure.

20 Q. Okay. When you were developing the  
21 label as opposed to the word mark per se, what  
22 were you trying to do in terms of designing the  
23 label? What were you trying to capture?

24 A. I don't understand the question.

25 Q. Well, if you were designing the



1 M. M. Dushey

2 label.

3 Q. But is that important in terms of  
4 getting it purchased by a customer?

5 A. Yeah.

6 Q. Why?

7 A. Because if it looks ugly, who wants  
8 to purchase it.

9 Q. Okay. If you don't do any  
10 advertising to customers, how is it that you  
11 expect them to make a decision to buy your  
12 brand of water versus somebody else's?

13 A. It's called organic growth.

14 Q. Okay. Explain organic growth to me.

15 A. Organic growth is word of mouth and  
16 when people shop, they look at what they're  
17 shopping for when people -- when consumers are  
18 educated in what they're looking for. So when  
19 they do look at the shelf, they look at the  
20 products they're purchasing and they know what  
21 they're purchasing.

22 Q. Okay. How do you educate the  
23 consumer?

24 A. The consumer gets educated by what's  
25 on the bottle and what's on the web site and

1 M. M. Dushey

2 Q. Okay. Let's take a look at the next  
3 page, 100 percent natural spring water.

4 A. Um-hmm.

5 Q. When you look at that bottle that's  
6 depicted there, how has it changed now?

7 A. The label changed and the bottle  
8 changed.

9 Q. Okay. Explain how it looks now.

10 A. It's a ribbed bottle.

11 Q. A ribbed bottle. Where is it  
12 ribbed?

13 A. All over the bottle.

14 Q. All over the bottle. Is it the same  
15 kind of ribbing that I see on the bottom of  
16 this bottle?

17 A. No. That's not ribbed.

18 Q. Okay. How has the label changed?

19 A. The label has changed. You would  
20 have to see it. I don't know how to explain it  
21 to you. It has grass on it.

22 Q. It has grass on the bottom?

23 A. Um-hmm.

24 Q. Do you still use the T-y-r with the  
25 leaf, the globe and the teardrop?

1 M. M. Dushey

2 A. No.

3 Q. Okay. So he only takes it to the  
4 distributor.

5 What length of time transpires  
6 between the time that the product is bottled  
7 and the time that it reaches the ultimate  
8 consumer?

9 A. When it's sold.

10 Q. How long is that?

11 A. That varies. There's no way to  
12 pinpoint it. There's not even a -- when it's  
13 sold. It's either sold or it's not sold. If  
14 it's not sold, it sits. If it's sold, it goes.

15 Q. When you say it sits, how long would  
16 you expect it typically to sit?

17 A. I typically don't expect it to sit  
18 at all.

19 Q. Um-hmm.

20 A. But a sale is a sale. I can't  
21 determine or predetermine when a sale is going  
22 to be made. That's up to the purchaser, for  
23 them to write the order, how fast they go  
24 through product and...

25 Q. Do you have any idea of how fast

1 M. M. Dushey

2 only be used for emergency use, not for  
3 designer bottled water. To drink a bottle of  
4 water from overseas only causes harm to the  
5 environment and you." What about that?

6 Q. What does that mean?

7 A. That means why ship bottles overseas  
8 when you can get it locally.

9 Q. Oh, it just means that you should  
10 just buy here?

11 A. Unless you have an earthquake in a  
12 country like -- what country did we just have  
13 an earthquake in that just got destroyed last  
14 year or two years ago? I forgot what it was.  
15 They were out of water. They shipped water.

16 Q. Okay. I want you to go up one  
17 paragraph.

18 A. Um-hmm.

19 Q. The second sentence says "Just know  
20 that TYR brings you fresher water than any  
21 other brand." How do you know that?

22 A. How do I know that? Because I know  
23 how other people bottle.

24 Q. And how do they bottle?

25 A. They don't bottle at the source.

1 M. M. Dushey

2 A. Yes, it is.

3 Q. Did you write this source code?

4 A. Yes, I did.

5 Q. Okay. Why did you just -- can you  
6 explain what a meta name is?

7 A. A meta name, from what I understand,  
8 is a description.

9 Q. Of what?

10 A. Whatever you want it to be a  
11 description of; key words, descriptions, all  
12 types of different types of meta names. It's a  
13 name that Google picks up, searches.

14 Q. And what is a -- I see meta name  
15 used twice here. It says meta name equals  
16 description and then under that it says meta  
17 name equals key words. What's the difference  
18 between description and key word?

19 A. I don't really know. I just know  
20 from just looking around and seeing what other  
21 people are doing, that they use key words and  
22 descriptions. That's what the search engines  
23 pick up.

24 Q. Search engines pick up. And one of  
25 the key words that you put in here, is that

1 M. M. Dushey

2 this and tell me whether you are familiar with  
3 this document I've handed you.

4 A. I am.

5 Q. And what is it?

6 A. It's the Manhattan Water Company web  
7 site.

8 Q. Okay. And as you look at the page  
9 designated as one of three, there's some  
10 products on the front that there are pictures  
11 of. Could you read the description of those  
12 products into the record.

13 A. What page are you looking at? The  
14 page you're looking at is different than the  
15 page I'm looking at.

16 Q. No, they're the same.

17 A. I don't know where that page is.

18 Q. The first page you were looking at,  
19 please read into --

20 A. Five-gallon and three-gallon  
21 bottles, TYR 16.9 ounce, five and three  
22 gallons, stainless steel hot and cold, five-  
23 and three-gallon bottle racks.

24 Q. Okay. Do you see anything for cup  
25 holders?

1 M. M. Dushey

2 Q. Okay. Is TYR also advertised on  
3 this site?

4 A. Right here.

5 Q. So both your products and cups and  
6 cup holders are offered at this site?

7 A. Yes.

8 Q. Why would one offer both water, cup  
9 holders, cone cups and things like that at the  
10 same site?

11 A. Because CDC does all that business.

12 Q. Okay. But why would they offer --  
13 why do you suspect that they offer all of those  
14 products?

15 A. Because I know they offer all those  
16 products.

17 Q. But why would a distributor choose  
18 to distribute all those different kind of  
19 products through one site?

20 A. I don't understand your question.

21 Q. Why would a distributor offer both  
22 water and containers for water in the same  
23 site?

24 A. I still don't understand the  
25 question. What are you talking about,

1 M. M. Dushey

2 A. I think we went for  
3 TYRspringwater.com. I'm not sure. That was a  
4 while ago.

5 Q. So did you or did you not try for  
6 anything else?

7 A. I don't recall right now.

8 Q. Okay. Did you try for TYR first,  
9 TYR.com?

10 A. I don't believe so.

11 Q. Okay. When you got the opposition,  
12 did your attorney give you any advice about  
13 proceeding with the case against TYR Sport?

14 A. I'm sure he did.

15 Q. Okay.

16 A. To the best of my knowledge right  
17 now.

18 Q. Why did you continue with the  
19 applications after you got the Notice of  
20 Opposition?

21 A. Because I don't think there's  
22 confusion.

23 Q. Between what?

24 A. Between TYR Sport and TYR Natural  
25 Spring Water.



1 M. M. Dushey

2 A. Nothing empty.

3 Q. Oh, yeah? I disagree. You just  
4 read into the record that there were cups and  
5 cup holders and you just explained to me that  
6 people do that because you sell both the water  
7 and the container.

8 A. What you sell we don't sell.

9 Q. What do you mean what I sell you  
10 don't sell?

11 A. We don't sell a polycarbonate  
12 plastic bottle to hold water or beverages. We  
13 sell cups, cone cups, 9 ounce to 14 ounce cups.  
14 If you sell cups with TYR, that's a different  
15 story, but I don't see any products on here  
16 that you sell, unless maybe I'm incorrect and  
17 I'm just unnotified, but do you see any  
18 products on here that TYR Sport, TYR or all the  
19 other various names you have sell? Is there  
20 anything here listed on any of these sites?

21 Q. You sell containers. Manhattan  
22 Water Company sells --

23 A. We don't sell --

24 Q. -- containers for water and water.

25 A. We don't sell empty containers.

1 M. M. Dushey

2 Q. Did your attorney tell you that  
3 water bottles and bottled water were not  
4 related?

5 A. Not that I recall. To the best of  
6 my knowledge I don't remember these  
7 conversations right now.

8 Q. He didn't discuss it with you at  
9 all?

10 A. Not what you refer to as a container  
11 as to what we refer to as a container.

12 Q. No, I'm just asking you in the  
13 Notice of Opposition --

14 A. Um-hmm.

15 Q. -- TYR Sport specifically claimed it  
16 had been selling water bottles, not bottled  
17 water.

18 A. Who said that?

19 Q. TYR Sport.

20 A. Um-hmm.

21 Q. Would you like to see the Notice of  
22 Opposition? Would it help you?

23 A. No, that's fine.

24 Q. Okay. It specifically stated that  
25 it had been selling water bottles under the

1 M. M. Dushey

2 comes.

3 Q. Irrespective of the likely outcome?  
4 Is that what you're saying?

5 A. That's not what I'm saying.

6 Q. Well --

7 A. You're putting words in my mouth.  
8 Like I said --

9 Q. No, I'm curious.

10 A. I know you're curious.

11 Q. Because every attorney would  
12 normally talk to their client about their  
13 chance of success.

14 A. Well, I fired my attorney.

15 Q. I understand that.

16 A. So there's a difference --

17 Q. I understand.

18 A. -- in what you think should happen  
19 and what does happen.

20 Q. Well, as we sit here today --

21 A. Um-hmm.

22 Q. -- did he ever discuss the sanctions  
23 for trademark infringement with you?

24 A. I don't even know what that means.

25 Q. You're aware that if you go into

1 M. M. Dushey

2 company had done sponsorships in the field of  
3 phones?

4 A. What happens if I prevail in this  
5 case? That means you have to destroy all of  
6 your bathing suits?

7 Q. No, we were first. We're first.

8 A. I don't recall what the lawyer told  
9 me. I canned him.

10 Q. You didn't get into any of that.

11 When the opposition was filed in  
12 August of 2000 -- it was published in August of  
13 2010, what kind of documents -- do you have  
14 sales document that you normally keep for your  
15 business?

16 A. Yeah.

17 Q. How long do you keep those?

18 A. I don't know how long we keep them  
19 for. They're in a computer sytem.

20 Q. Yeah. What about e-mails, do you --  
21 how do you communicate with your distributors,  
22 phone, e-mail?

23 A. Call them.

24 Q. You just call them? It's not done  
25 over the phone?

1 M. M. Dushey

2 A. It's a one-man show.

3 Q. Okay. Do you ever get either  
4 e-mails or tweets or postings on Face Book in  
5 response to you from customers?

6 A. On Face Book I think we have two.  
7 Tweets we get none because we don't tweet.  
8 Once in a blue moon we send a tweet out just to  
9 tweet. Okay?

10 MS. CALCAGNO: Okay. It's 12:50.  
11 Why don't we take a break for lunch and  
12 come back at two p.m. Okay?

13 THE WITNESS: It's just one now?

14 MS. CALCAGNO: Yep. Ten of one.  
15 Okay. Come back at two p.m. and then we'll  
16 continue the deposition.

17 THE WITNESS: And what time do you  
18 think we're going to go to here, five?

19 MS. CALCAGNO: I really -- you know,  
20 I'll try and do my best. We'll be here  
21 probably 'til five.

22 THE WITNESS: Okay.

23 (Luncheon recess is taken at  
24 12:50 p.m.)

25

1 M. M. Dushey

2 A. 2/26/2012.

3 Q. And the caption up at the top  
4 left-hand corner?

5 A. Tweeter/People who follow TYR Water.

6 Q. Is this a document you're familiar  
7 with? Have you -- is this a document you're  
8 familiar with?

9 A. No.

10 Q. Have you ever seen this before?

11 A. This document like this, no.

12 Q. No. Okay. Do you understand what  
13 people who follow TYR Water means?

14 A. Yes.

15 Q. What is that?

16 A. People who follow you on Twitter.

17 Q. Who follow you on Twitter. If I  
18 represented to you that this was a download  
19 from Twitter.com --

20 A. Oh, okay. Go on. Sorry.

21 Q. -- would that be consistent with  
22 what your understanding is of people who  
23 posted tweets to you, to TYR Water?

24 A. I would have to look because I don't  
25 know what you actually downloaded. There's a

1 M. M. Dushey

2 to the judges, who may not have ever used  
3 Twitter given their ages, explain how that  
4 works.

5 A. I'm not too really that familiar  
6 about it. It's just follow and unfollow and  
7 you write something and it goes.

8 Q. Okay. Do you have an account with  
9 Twitter?

10 A. Yes.

11 Q. Okay. And what is the point of  
12 having that account with Twitter?

13 A. Why not?

14 Q. Well, I can understand that you can  
15 answer every question in the world like why are  
16 you walking with your legs facing the ground as  
17 why not, but really what I'm asking you is why  
18 would a business post -- want to have an  
19 account with Twitter? What does it do for a  
20 business? What benefit does the business get?

21 A. What I did is I researched Twitter  
22 to see what was it about.

23 Q. Just to see what it was about?

24 A. Um-hmm. Play around with it a  
25 little bit and explore it.

1 M. M. Dushey

2 TYR Water?

3 A. Anybody who drinks water and is eco  
4 friendly.

5 Q. So what ages are they?

6 A. Like I said, anybody who drinks  
7 water.

8 Q. So your target consumer is anybody  
9 who would drink --

10 A. Water.

11 Q. -- water?

12 A. Bottled water.

13 Q. Okay. Let's move on from this one  
14 to...

15 (Pause on the record.)

16 MS. CALCAGNO: I'm going to hand the  
17 court reporter a 26-page document entitled  
18 TYR Water on Twitter dated January 25, 2012  
19 and ask her to mark it as Opposer's  
20 Exhibit 8.

21 (Opposer's Exhibit 8, 26 Twitter  
22 pages, are marked for identification as of  
23 this date.)

24 Q. Mr. Dushey, would you take a few  
25 minutes --



1 M. M. Dushey

2 correct that people are posting messages to you  
3 on these accounts?

4 A. No.

5 Q. Is that what this reflects?

6 A. No.

7 Q. What does it reflect?

8 A. This is us posting.

9 Q. You're posting. Okay.

10 If I go to page -- I'd like to ask  
11 you to turn to page four. If you could read  
12 the 6th of February post.

13 A. "Just got a call from the owner of  
14 Metropolitan Food Service who runs ten college  
15 cafeterias. They want TYR for all their  
16 concessions."

17 Q. Is this a post that you would have  
18 placed?

19 A. It is a post we placed.

20 Q. Okay. Who is Metropolitan Food  
21 Service?

22 A. They're a food service provider.

23 Q. Food service provider. Are they  
24 also one of your distributors?

25 A. No.

1 M. M. Dushey

2 A. -- "from the owner of Metropolitan  
3 Food Service who runs ten college cafeterias  
4 that they want TYR for all their concessions."

5 Q. Was that accurate at the time you  
6 posted that?

7 A. It was just a phone call of a level  
8 of interest. That's all it was.

9 Q. Okay. But this is accurate what you  
10 state here?

11 A. It is what it is. It's a post.

12 Q. Is what you say here truthful?

13 A. In terms of?

14 Q. That you had just gotten a call from  
15 the owner of Metropolitan Food Service who runs  
16 ten college cafeterias that they wanted TYR for  
17 all their concessions?

18 A. Yes.

19 Q. Okay. Do you happen to know what  
20 college cafeterias they run? Only if you know.

21 A. No.

22 Q. Okay. Do you know where those  
23 college cafeterias are?

24 A. Nope.

25 Q. Okay. Turn to page five, please.

1 M. M. Dushey

2 A. Um-hmm.

3 Q. Can you explain the background of  
4 that?

5 A. There was possibly a project in  
6 place where we were going to take in  
7 information on our web site of people that  
8 wanted to get TYR delivered, but we never did  
9 it.

10 Q. May I ask why you didn't do that?

11 A. Too much work.

12 Q. Too much work?

13 A. Yeah, it didn't make sense.

14 Q. Okay. Well, it was a business  
15 decision. So okay.

16 23rd December 2010 there's two  
17 posts. One that begins at the bottom of page  
18 five and appears to continue at the top of page  
19 six. Could you read those first two lines.

20 A. "It is a great morning. NYU has  
21 just sent me an e-mail saying on January 1 TYR  
22 will start showing up all over their campus."

23 Q. Is that accurate? Did NYU send you  
24 an e-mail stating that?

25 A. NYU carried it in two locations on

1 M. M. Dushey

2 Q. For two days they carried your  
3 bottles?

4 A. No, we were actually going to go  
5 into carrying with them but actually we didn't  
6 because they wanted a price reduction.

7 Q. Okay. At the bottom of page nine,  
8 16th of October 2010 "TYR now available" -- it  
9 states "Now available in 45 locations in  
10 Manhattan."

11 A. Um-hmm.

12 Q. Was that accurate as of 16th October  
13 2010?

14 A. Um-hmm. Yes.

15 Q. Still accurate?

16 A. I would have to look into that.

17 Q. Do you believe it's more or less as  
18 you sit here?

19 A. At the moment that I did that I was  
20 talking with some of my distributors. So I  
21 don't know what that answer is.

22 Q. Do you have a list of your  
23 locations --

24 A. No.

25 Q. -- that it's sold at?

1 M. M. Dushey

2 have been the day we were trying to let people  
3 know of it maybe.

4 Q. Was that in connection with the  
5 upcoming -- I know it didn't happen, but the  
6 upcoming Run for the Kids?

7 A. I don't recall.

8 Q. Okay. July 20th, 2010, page 22,  
9 could you read that tweet.

10 A. Which one?

11 Q. "Back to New York City."

12 A. "Back to New York City from upstate  
13 in one of our bio diesel tractors transporting  
14 TYR to calculate our carbon footprint. Results  
15 available shortly."

16 Q. Were you driving a tractor?

17 A. No.

18 Q. Can you explain the background on  
19 that?

20 A. I caught a ride back to New York  
21 City.

22 Q. In a bio diesel tractor?

23 A. In a truck.

24 Q. Was it a bio diesel tractor?

25 A. I might have wrote tractor by

1 M. M. Dushey

2 A. It's just what you're doing at the  
3 moment is what a tweet is. It doesn't require  
4 follow-up. It doesn't require follow through.  
5 It doesn't require anything. It's what you're  
6 doing at the moment.

7 Q. Okay. Turn to page 23. 30th of  
8 July 2010. It says "Driving five hours  
9 upstate." I've done that myself. It  
10 says "to the source of TYR natural spring  
11 waters. Scary roads, higher and higher."

12 Where were you going?

13 A. Nirvana.

14 Q. And where is Nirvana?

15 A. Upstate.

16 Q. Yeah, but where? The Catskills?

17 A. Past the Catskills.

18 Q. Because I've been in the Catskills  
19 many times. I spent my summers there. I don't  
20 remember --

21 A. It's an hour and 45 minutes.

22 Q. Yeah, I don't remember --

23 A. Nirvana's five hours outside of the  
24 city.

25 Q. Right. Closer to Buffalo?

1 M. M. Dushey

2 Q. I see.

3 A. Virtual world.

4 Q. And it says "Get TYR for free with  
5 Second Life dollars." What are Second Life  
6 dollars?

7 A. If you go play the game, you'll  
8 know. You play the game, you get dollars.

9 Q. So does Second Life sell other kinds  
10 of products, too?

11 A. It's a whole planet. It's an entire  
12 world.

13 Q. So any kind of product really that  
14 you want you could sell there? Is that how  
15 Second Life works?

16 A. Yep. But it's only within the game.  
17 It's a virtual. You're selling something  
18 virtual.

19 Q. Right.

20 A. You're not selling something real.

21 Q. And what's the point of you being on  
22 that site, SecondLife.com?

23 A. What's the point of playing on the  
24 computer?

25 Q. Well, no, I mean as a businessman I

1 M. M. Dushey

2 many people do you think are in the  
3 United States?

4 Q. I don't know.

5 A. You don't know. There's over I  
6 would say over 300 million people in the  
7 United States. Okay? I would have to say  
8 there's over 30 million people in the  
9 United States and I'd have to say there's over  
10 200 million people in the United States and  
11 think about every single beverage, just three  
12 or five that were in this room that got opened  
13 and discarded.

14 Q. In one day.

15 A. Just in this room alone. Now, if  
16 you look out around you and we cover the globe  
17 and the United States and 30 million bottles  
18 are cracked open today and drank at minimum.

19 Q. Right. So people drink them, throw  
20 them out, drink another one, throw it out?

21 A. You're on your fourth I think.

22 Q. You're correct. So these are things  
23 that people go through quickly and throw all  
24 those bottles around.

25 A. Every single beverage we consume.



1 M. M. Dushey

2 Q. Retailers meaning?

3 A. Health food stores.

4 Q. Grocery stores, delis?

5 A. Health food stores.

6 Q. Just health food stores?

7 A. Most of their business I believe is

8 health food stores, but don't quote me on ---

9 I don't know who their customer list is.

10 Q. Okay. Page 17. If you could read

11 the second 13th of August 2010 tweet.

12 A. Which one are you talking about?

13 Q. "TYR is."

14 A. Oh, "TYR is the official water

15 sponsor of the Big Brothers and Big Sisters of

16 New York City Race for the Kids. Join us."

17 Q. Was this again the issue we were

18 discussing where you were going to supply water

19 to the Race for the Kids and then ultimately

20 did not?

21 A. Um-hmm.

22 Q. And that was solely due to them -- I

23 forgot. What was the reason that that didn't

24 go ahead?

25 A. They needed more water than we could

1 M. M. Dushey

2 Q. And that plant is the bottler  
3 Nirvana?

4 A. Sometimes I use other bottling  
5 plants.

6 Q. Oh, sometimes there are other  
7 bottlers?

8 A. Um-hmm. Yes.

9 Q. So sometimes it goes from Nirvana to  
10 a second company --

11 A. No.

12 Q. -- to be bottled? No? Where did I  
13 go wrong in that chain?

14 A. A bottling plant is where they fill  
15 the bottles. Sometimes we fill bottles at  
16 other plants.

17 Q. But does the water always come from  
18 Nirvana?

19 A. No.

20 Q. Oh, I see. So there are other  
21 sources than Nirvana?

22 A. Source. A bottling plant usually  
23 has their own water where they fill and that's  
24 why they're a bottling plant.

25 Q. Oh, I see. So not just Nirvana; you

1 M. M. Dushey

2 A. Correct.

3 Q. And they all use the same -- do all  
4 your bottlers use the same bottle?

5 A. No.

6 Q. But your TYR Water then is sold in  
7 different bottles?

8 A. Correct.

9 Q. Are all the bottles made out of the  
10 same material?

11 A. Yes.

12 Q. Okay. And do they follow a specific  
13 process in making those bottles, the same  
14 process?

15 A. I don't understand the question.

16 Q. Do all of your bottlers follow the  
17 same process in making the bottles?

18 A. Well, the bottlers don't make the  
19 bottles.

20 Q. Oh.

21 A. Blow molders make bottles.

22 Q. Okay. So somebody else makes all of  
23 your bottles?

24 A. No.

25 Q. Okay. I'm confused.

1 M. M. Dushey

2 Q. Okay. So then it goes to the  
3 company that fills that bottle?

4 A. Called the bottling plant.

5 Q. I got you. Okay. So do you always  
6 use one bottle, the same bottle?

7 A. No.

8 Q. That's what I'm not understanding.  
9 You have one blow molder; am I correct?

10 A. Right.

11 Q. I'm afraid I'm going to mess up that  
12 term. You have one blow molder and he makes  
13 all your bottles?

14 A. No.

15 Q. No. Okay. How is it that he  
16 doesn't make all of your bottles?

17 A. As I said, some bottling facilities  
18 offer different services and some bottling  
19 facilities have blow molding on-site.

20 Q. Ah, okay. Okay.

21 A. Some bottling facilities don't have  
22 blow molding on-site. When bottling facilities  
23 don't have blow molding on-site and I'm going  
24 to work with them, I use a bottle blow molding  
25 company.

1 M. M. Dushey

2 A. Yes.

3 MS. CALCAGNO: Just off the record.

4 (Discussion held off the record.)

5 MS. CALCAGNO: Back on the record.

6 Q. How big is a batch run of your  
7 bottles typically?

8 A. I don't use the term batch run.

9 Q. Okay.

10 A. We produce for our orders.

11 Q. But there must be some number below  
12 which -- you're not going to run for one bottle  
13 of water.

14 A. Run a trailer.

15 Q. A trailer. So how many --

16 A. 1,500 cases.

17 Q. 1,500 cases at a time?

18 A. At minimum.

19 Q. Okay. You were talking about table  
20 talkers earlier?

21 A. Shelf talkers.

22 Q. Shelf talkers. Thank you. Blow  
23 molding, table talkers.

24 Can you describe to me what appears  
25 on the shelf talker, what the consumer would

1 M. M. Dushey

2 A. TYR Water actually appears together  
3 a lot.

4 Q. Always?

5 A. Most of the time.

6 Q. Okay. But do you see TYR Return to  
7 Nature without the word water there?

8 A. Yes.

9 Q. Okay. Do you ever see this logo --  
10 I just may refer to it as your logo so we  
11 understand. Do you ever see that without the  
12 word separately printed TYR underneath it or  
13 around it?

14 A. I don't understand.

15 Q. I'm going to do something that's  
16 going to drive the court reporter crazy. I'm  
17 holding up Opposer's Exhibit --

18 A. 7.

19 Q. -- 7, okay, and I'm blocking out  
20 everything below --

21 MS. CALCAGNO: I'm showing the  
22 witness everything -- I'm blocking out  
23 everything below the TYR Water logo.

24 A. Um-hmm. Yes.

25 Q. Do you ever have any packaging, any

1 M. M. Dushey

2 reaction I'm saying.

3 Q. Do you ever have it without the word  
4 water underneath it?

5 A. Yeah, I would say because return to  
6 nature doesn't say water.

7 Q. Okay. Have you --

8 A. I would actually add something to  
9 that, and if it ever appeared that way, it  
10 would only be on a Twitter or a Face Book as a  
11 concept design. It would never appear anywhere  
12 on any marketing materials without the word  
13 water being used up there.

14 Q. Why do you always use the word water  
15 next to TYR?

16 A. Because we sell water.

17 Q. No, I realize that, but Kodak  
18 uses -- you know, God bless them, they're now  
19 in bankruptcy, but they always used the word  
20 Kodak without the word camera and Intel just  
21 uses the word Intel a lot without chips.

22 A. Well, those are house brand names.  
23 They don't need to explain themselves.

24 Q. Well, Nike started out just using  
25 sneakers and they used the word Nike alone.

1 M. M. Dushey

2 art exhibition in the city.

3 Q. Okay. How many bottles were you  
4 able to --

5 A. I gave her five cases.

6 Q. Anything else? Were you able to  
7 give any promo, you know, bottles away in  
8 connection with other promotional events?

9 A. No.

10 Q. What does CDC -- there was the  
11 distributor called CDC. Do you know what CDC  
12 stands for? Only if you know.

13 A. I'm forgetting offhand what CDC  
14 stands for, to be honest with you.

15 Q. Do you know?

16 A. I do know. I'm not recalling what  
17 it is. It's coffee something.

18 Q. Coffee Distributing Company maybe?

19 A. That's what it is.

20 Q. Okay. I want to return to your  
21 residence because I may have gotten the wrong  
22 information from you and I want to be certain  
23 I'm correct. When you filed your application  
24 to register, you gave a Brooklyn address.

25 A. That's my family's home.



1 M. M. Dushey

2 A. No, not confidential.

3 Q. Strike, object?

4 A. Object to having my personal  
5 information, what I have -- where my family  
6 lives or -- I'd like to object to all that  
7 information. What does that have to do with  
8 anything?

9 Q. Well, you gave your -- you have to  
10 give your address to the USPTO and you gave  
11 them an address.

12 A. Um-hmm.

13 Q. And that address was inconsistent  
14 with the address that you stated in this  
15 proceeding.

16 A. 1 State Street?

17 Q. Yeah.

18 A. 1 State Street is where I moved all  
19 the information to go to.

20 Q. Well, your residence address was  
21 listed as the other one.

22 A. As?

23 Q. 2220 Avenue J in Brooklyn.

24 A. I was there for a moment.

25 Q. For a moment. Okay.

1 M. M. Dushey

2 A. They let me use it.

3 Q. But this is in an office building?

4 A. Yes.

5 Q. So that's where you sleep and that's  
6 where you live?

7 A. Yeah, sometimes.

8 Q. Sometimes, but not all the time?

9 A. Right.

10 Q. So where is your real address?

11 A. I have a girlfriend.

12 Q. Is that your real address where you  
13 are most of the time?

14 A. Sometimes.

15 Q. And where is that address?

16 A. That's 15 William.

17 Q. 15 William in? I'm not from  
18 New York.

19 A. Downtown.

20 Q. Is that New York City?

21 A. Yeah, it's New York City.

22 Q. Okay. 15 William Street?

23 A. Street.

24 Q. My apologies. I don't know these  
25 things. Okay. 15 William Street is your

1 M. M. Dushey

2 Q. Okay. How did you --

3 MS. CALCAGNO: Off the record just  
4 one second.

5 (Discussion held off the record.)

6 BY MS. CALCAGNO:

7 Q. Could you clarify something you  
8 stated earlier. Is Manhattan Water Company no  
9 longer a formal legal entity?

10 A. Correct.

11 Q. Okay. It died as a corporation?

12 A. Correct.

13 Q. So the web site that still exists --

14 A. Um-hmm.

15 Q. -- under Manhattan Water Company,  
16 who is maintaining that site if Manhattan  
17 Water --

18 A. I do.

19 Q. Oh, you do?

20 A. Um-hmm. Yes.

21 Q. So you're the one posting content to  
22 that site?

23 A. Just put up the web site, yeah.

24 Q. Yeah, you are. Okay.

25 When persons purchase things from

1 M. M. Dushey

2 Q. Okay.

3 A. Take the referrals from the site and  
4 they purchase TYR.

5 Q. Do you have plans to take that site  
6 down?

7 A. I don't know.

8 Q. As you sit here today do you have  
9 plans to take that site down?

10 A. I have no idea. I don't even think  
11 about that.

12 Q. Okay. The firm that Mr. Cox is  
13 in --

14 A. Um-hmm.

15 Q. -- do you still work with them?

16 A. No.

17 Q. Did you work with them before the  
18 trademark applications?

19 A. I was introduced to them before the  
20 trademark applications through somebody that  
21 they did something for us.

22 Q. Okay. Did you personally pay for  
23 the search -- when I say clearance work, do you  
24 know what that means?

25 A. Yes, I think I understand.

1 M. M. Dushey

2 A. No.

3 Q. Who paid for the trademark  
4 applications?

5 A. TYR.

6 Q. TYR did. TYR was not incorporated  
7 until October of 2010. How could TYR have paid  
8 for applications that were filed six months  
9 before?

10 A. Because monies for TYR was invested  
11 by myself before it was incorporated to get  
12 things rolling.

13 Q. Okay. So it was your money?

14 A. Yes.

15 Q. Okay. So ultimately you paid for  
16 it?

17 A. Yeah, it just wasn't personally. I  
18 put together funds on the side.

19 (Pause on the record.)

20 Q. Okay. Mr. Dushey, on your site you  
21 talk about regulations. I think it's NHS or  
22 NHA.

23 A. Which site?

24 Q. On your TYR Water site.

25 A. Right.

1 M. M. Dushey

2 additional standard of excellence.

3 Q. I see. And how do you know that the  
4 TYR Water meets or exceeds --

5 A. Because Nirvana is NSF approved.

6 Q. I see. Does that approval extend to  
7 the water once it's in the bottle or only to  
8 the point of bottling?

9 A. It's to the bottling facility. It's  
10 not to the extent of the water. It's the  
11 extent of the procedures to bottle.

12 Q. The procedures to bottle.

13 A. The cleanliness of the facility.

14 Q. I see. I see. Okay.

15 I'm going to go through another  
16 exhibit, which is...

17 MS. CALCAGNO: I'm handing to the  
18 court reporter Applicant's Response to  
19 Opposer's First Set of Requests for  
20 Production of Documents Nos. 1-54.

21 (Opposer's Exhibit 9, Applicant's  
22 Response to Opposer's First Set of Requests  
23 for Production of Documents 1-54, is marked  
24 for identification as of this date.)

25 Q. Mr. Dushey, before we get into that,

1 M. M. Dushey

2 take a break. Take a break now and we'll come  
3 back in 15 minutes and you can choose to do  
4 with the time whatever you want and then you  
5 can review those when we convene again.

6 (Recess taken.)

7 BY MS. CALCAGNO:

8 Q. Okay. I'm going to ask you a  
9 question before we get into that.

10 A. Okay.

11 Q. Do you have any ownership interest  
12 in any other companies besides the now defunct  
13 Manhattan Water Company and TYR?

14 A. No.

15 Q. That's it?

16 A. That's it.

17 Q. They're the only ones?

18 A. Yes.

19 Q. Okay. So you don't have an  
20 ownership interest in Global Financial?

21 A. No.

22 Q. Not at all. Okay.

23 Okay. You were stating earlier that  
24 you think that there's no likelihood of  
25 confusion between TYR Sport's stuff and your

1 M. M. Dushey

2 A. Because it's representing water, the  
3 T-shirts. It's representing my water.

4 Q. Why? How does it represent water?

5 A. Because my logo represents water.

6 Q. Because of the logo?

7 A. Right.

8 Q. So the logo adds a distinctive  
9 product. Is that what you're saying?

10 A. No, I don't think that's what I'm  
11 saying. If I understand your question right,  
12 if I saw my logo --

13 Q. Um-hmm.

14 A. -- and somebody took it and put it  
15 on a T-shirt and I have a mark for it --

16 Q. Yeah.

17 A. -- and they're representing bottled  
18 water and they're trying --

19 Q. They're not representing anything.  
20 They're just selling T-shirts that have your  
21 logo on it.

22 A. If it's my logo, they're  
23 representing bottled water.

24 Q. Okay. Because you said earlier  
25 well, sportswear and that kind of stuff moves



1 M. M. Dushey

2 would have a problem with that.

3 A. That's just an opinion, a feeling.

4 I would have to let it set in. I would have to  
5 see how I felt about it, what the situation  
6 was.

7 Q. Well, it's your logo.

8 A. Yeah, I would have to sit down and I  
9 would have to think about it.

10 Q. So when you said earlier you would  
11 have a problem with that because that's your  
12 logo and referring to your product, you changed  
13 your mind now?

14 A. No, I didn't change my mind. I  
15 would just sit with it as far as we're just  
16 sitting in here discovering and talking and  
17 discussing and I'm being, you know,  
18 interviewed. If I saw the situation and it was  
19 real, I'd sit and think about before I made any  
20 actions or said anything, but maybe just while  
21 in a quick discussion not really in relevance  
22 to anything, it would grab my eye.

23 Q. Well, let me ask you -- because  
24 you're being candid. Let me put it to you this  
25 way. Could you see -- I'm not saying whether

1 M. M. Dushey

2 Q. Actually we didn't.

3 A. Okay. So that's just an opinion.

4 Q. So I'm getting back to my question.

5 A. And that is?

6 Q. If somebody used your logo on a  
7 T-shirt --

8 A. Um-hmm.

9 Q. Okay? I'm not talking about your  
10 word. I'm talking about your logo.

11 A. If somebody used my logo on a  
12 T-shirt, having a trademark, by law I'd have to  
13 do something about it.

14 Q. Okay. Thank you.

15 Okay. And what about if you saw  
16 your logo, your logo on an empty water bottle  
17 or sports bag that was used to carry water?

18 A. I don't know. I would have to think  
19 about it.

20 Q. Why is that different?

21 A. Because I'd have to think about it.  
22 It never happened.

23 Q. Right. It was still your logo.  
24 You'd have to do something about it?

25 A. I would guess.

1 M. M. Dushey

2 absolutely certain of because you're moving to  
3 different addresses and you're saying you're  
4 changing the service address for your  
5 corporation from the Brooklyn address, which is  
6 the current address. Is that house vacated or  
7 is it pending closing?

8 A. It's sold.

9 Q. It's sold, but is it closed? Has  
10 your family moved out, gone?

11 A. Two and a half weeks everybody will  
12 be gone.

13 Q. But it's still there and --

14 A. As of today.

15 Q. Okay. So the closing is --

16 A. It's closed already.

17 Q. It's closed, but they're still  
18 there?

19 A. They're there. They have a few days  
20 to move out.

21 Q. Okay. And am I understanding that  
22 you'll accept service, as you said in the Board  
23 case, at State Street, at the State Street  
24 address?

25 A. I believe I sent notice to you guys

1 M. M. Dushey

2 Q. Okay.

3 A. So you shoot me a heads up, I always  
4 communicate with you.

5 Q. Okay. So you'll accept service  
6 there?

7 A. 100 percent accept service.

8 Q. Thank you.

9 A. But did I not though send  
10 information to you?

11 Q. Absolutely.

12 A. I remember doing so. So if you have  
13 an issue with somebody, you can always lift the  
14 phone and call me.

15 Q. Absolutely. Agreed. Okay. I just  
16 wanted to make certain of all this.

17 I'll hold off on this e-mail. It's  
18 a minor question.

19 Okay. I'm referring to Applicant's  
20 Response to Opposer's First Set of Requests for  
21 Production of Documents No. 1 through 54, which  
22 is Opposer's Exhibit --

23 A. 9.

24 Q. -- 9. Okay. There are a number of  
25 objections to documents and I just want to go

1 M. M. Dushey

2 you?

3 A. Um-hmm. We ran a trademark search.

4 Q. Yeah. Do you still have that?

5 A. I don't know. I'd have to look.

6 Q. Okay.

7 A. That might be at the lawyer's  
8 office.

9 Q. It might be at the lawyer's office?

10 A. Maybe. I'm not sure.

11 Q. Okay. Did he turn over all the  
12 documents to you?

13 A. He actually sent me information to  
14 go pick up some of the information. I never  
15 picked it up.

16 Q. Okay. So this would relate to the  
17 trademark search as well as any written opinion  
18 if he had -- if he gave you anything.

19 A. No, he didn't give me any written  
20 opinion.

21 Q. No? Okay. It also refers to the  
22 domain name, if you have a domain name  
23 registration, anything that related to picking  
24 up that domain name that included the word TYR  
25 like your TYR or TYRNaturalSpringWater.com.

1 M. M. Dushey

2 Q. That's it?

3 A. -- that's what you got.

4 Q. Okay.

5 A. It's all there online.

6 Q. Okay. Representative documents --

7 A. And just to note, if I'm missing  
8 something right now or I'm not recollecting  
9 something right now, it's all online for you to  
10 print up and do as you've already done in  
11 exhibits -- I forget which exhibits they are.

12 Q. Okay. Just to be upfront with you,  
13 what I'm going to do with you after this  
14 deposition is I'm going to send you a letter  
15 saying this is again what we're looking for.  
16 You're under a duty because of these requests  
17 to go through them. You don't have a lawyer.  
18 So I'm sitting here going through them with you  
19 so that you will understand --

20 A. No, I'm going to have a lawyer after  
21 this.

22 Q. Okay. Whoever it is, they're going  
23 to be asking you for these documents. That's  
24 why I'm going through these things. Okay?

25 A. Um-hmm.

1 M. M. Dushey

2 evidence you have that backs up that date of  
3 first use.

4 Request No. 9, which refers to  
5 Interrogatory Nos. 10 and 11, those are your  
6 sales and advertising figures. Typically what  
7 is produced is actual -- like if you have a  
8 computer run that keeps your sales figures. Do  
9 you have a computer that keeps them?

10 A. I would have to check. I'm not sure  
11 right now.

12 Q. Okay. Well, however you keep your  
13 sales figures. I mean for most corporations  
14 the easiest is they just do a computer run.  
15 They just 1992, here are our sales figures.  
16 1993, here are our sales figures. Okay?

17 Advertising figures the same thing.  
18 You don't have to give us every invoice you  
19 ever made. Okay? Just your sales figures,  
20 annual.

21 Anything which reflects or refers to  
22 a discontinued or interrupted use of any mark.  
23 That is if you ever stopped using the mark TYR.

24 A. I didn't understand what you just  
25 said.

1 M. M. Dushey

2 have such documents.

3 You testified today that you didn't  
4 know what waiver and estoppel was; am I  
5 correct?

6 A. Yes.

7 Q. Okay. Request No. 14, any  
8 communications that you got which were  
9 addressed to or which appeared to have been  
10 intended for TYR Sport. Okay?

11 A. Say that again.

12 Q. Any communication that you got but  
13 which were addressed to TYR Sport or which  
14 appear to have been intended for TYR Sport or  
15 which relate to TYR Sport's products or  
16 services.

17 A. Okay.

18 Q. Okay?

19 A. We never received anything.

20 Q. Okay. All documents -- No. 15,  
21 anything in your possession that mentions  
22 TYR Sport, the TYR Sport marks or TYR Sport's  
23 products or services. And when Dushey is used  
24 here --

25 A. Dushey.



1 M. M. Dushey

2 You understand what a channel of trade is?

3 A. (Nodding).

4 Q. Okay. Documents, No. 20, sufficient  
5 to show all classes or types of purchasers. Do  
6 you understand what that one means?

7 A. Explain it to me.

8 Q. Okay. Classes or type of purchasers  
9 would mean what kind of people -- classes or  
10 types of people. What kind of people buy it  
11 and/or people to whom you market.

12 So, for example, distributors.

13 Distributors buy the product from you.

14 Consumers buy the product from your

15 distributors. Those are all purchasers. So

16 you would explain these are my classes or types

17 of purchasers. As you said during the

18 deposition, anybody who -- I mean I don't want

19 to put words in your mouth, but anybody who

20 drinks water, right?

21 A. (Nodding).

22 Q. Okay. Request No. 21, a

23 representative example of each different

24 advertisement or promotional material presently

25 distributed or planned to be distributed by you

1 M. M. Dushey

2 volume. Again, that's dollar amounts and  
3 bottles or however you sell them. Again, most  
4 people respond to this with a computer run if  
5 that's what you have.

6 Request No. 25, same thing with  
7 advertising expenditures.

8 Request No. 26, a complete list of  
9 your distributors, retail and wholesale outlets  
10 including, but not limited to, brick and mortar  
11 as well as Internet distributors for each year  
12 since you began use.

13 Request No. 27, this is your annual  
14 promotional figures and geographic regions.  
15 Where have you sent your shelf talkers?

16 A. To my distributors.

17 Q. So they're just limited to New York;  
18 is that correct? The shelf talkers would just  
19 be distributed in the New York area?

20 A. To the best of my knowledge.

21 Q. Okay. Fair enough. Okay.

22 So it's the shelf talkers and you  
23 have the web site which anybody can access.

24 A. To the best of my knowledge.

25 Q. Yeah. Request No. 28, this is again

1 M. M. Dushey

2 A. I'll respond to the document when  
3 you send me the document.

4 Q. This is the document right here.

5 A. Yeah, I'm just saying you said  
6 you're sending me another one of these?

7 Q. I'm going to send you a bullet of  
8 this, but these are the actual document  
9 requests.

10 A. This is the document that is  
11 presented. Why would I have to redo this  
12 again?

13 Q. Well, because you never gave us any  
14 documents. And you'll notice, for example, in  
15 response to No. 29, you see that last sentence,  
16 "Subject to the foregoing objections, applicant  
17 will produce responsive non-privileged  
18 documents"? They were never produced because  
19 at that point in time is when there was the  
20 conflict with your attorney and proceedings  
21 were suspended.

22 A. I guess.

23 Q. Okay. So these are still  
24 outstanding and we require these documents.  
25 These are the written document requests. I'm

1 M. M. Dushey

2 your rights or anyone where somebody gave you  
3 their rights. Do you understand what an  
4 assignment is, a trademark assignment?

5 A. No.

6 Q. It's like when you sell a house but  
7 you're selling the trademark to somebody else.

8 A. Okay.

9 Q. Request No. 33, this is all  
10 documents referring to any third parties using  
11 any mark or having applied to register any mark  
12 consisting of the term TYR or that design. For  
13 example, your search report would typically  
14 list, that book would list third parties.  
15 Okay?

16 A. (Nodding).

17 Q. Request No. 34, anything that  
18 you -- there were certain interrogatories where  
19 your counsel indicated that documents would be  
20 produced in response to the interrogatories.  
21 This one says, okay, give those to us.

22 Request No. 35, do you know what an  
23 initial disclosure is?

24 A. I think so.

25 Q. Okay. Do you remember that

1 M. M. Dushey

2 Q. When he says applicant will  
3 produce -- you see how he says applicant will  
4 produce in response?

5 A. Um-hmm.

6 Q. That means I'm going to give you the  
7 documents.

8 A. Oh, right. Okay.

9 Q. You see that?

10 A. Yeah.

11 Q. Okay. Request No. 38 --

12 A. Will produce any non-privileged  
13 documents.

14 Q. Right.

15 A. Okay.

16 Q. Request No. 38, all documents and  
17 things -- right, that's what it says here.  
18 Okay? Whether something is privileged or not  
19 is something that, you know, people can argue  
20 about, but that's what he says here.

21 A. Okay.

22 Q. Request No. 38, all documents and  
23 things tending to either support your  
24 affirmative defenses or negate them.

25 Request No. 39 we've gone through.

1 M. M. Dushey

2 Request No. 45, same thing except  
3 we're asking for any labels that you ever used.  
4 Not just TYR, but if you were offering water  
5 under another mark.

6 Request No. 46, any documents that  
7 refer to anyone other than you who is an  
8 officer, director or an employee of Manhattan  
9 Water Company having any involvement with the  
10 sale or distribution of the TYR products.  
11 Okay?

12 Again, No. 47 is directed to trying  
13 to get all documents relating to the design or  
14 creation of your marks.

15 Request No. 48 asks for any  
16 documents you have relating to the decision to  
17 adopt the marks, how you adopted the marks, the  
18 reason why you adopted the marks.

19 Request No. 49 asks for all  
20 documents reflecting every sponsorship. For  
21 example, any communications you had with  
22 Race for the Kids, any athletic events,  
23 promotional events such as your friend's art  
24 show, charitable event or other sponsorship  
25 events or trade shows. For example, you

1 M. M. Dushey

2 Q. It's a bottling plant regulation?

3 A. No, it's just a higher standard of  
4 bottling.

5 Q. Okay. And then the last one your  
6 attorney objected to. So I'll deal with that  
7 with your new lawyer, whoever that is.

8 MS. CALCAGNO: Okay. I want to turn  
9 now and ask the reporter to mark this as  
10 Opposer's Exhibit 10.

11 (Opposer's Exhibit 10, pages from  
12 Manhattan Water Company web site, are  
13 marked for identification as of this date.)

14 A. Just so you guys know, I have until  
15 5:15 at the latest. Okay?

16 Q. That's okay. You won't be able to  
17 ask me any questions.

18 Okay. Please take a minute and  
19 review this.

20 A. This is all -- I did this all within  
21 a week. This was all done last week.

22 Q. So what is this, for the record?

23 A. This is a home/office delivery  
24 setup.

25 Q. For what -- which web site is this

1 M. M. Dushey

2 Q. No, no, but I'm saying if the  
3 students filled out their billing information  
4 where the asterisks are and requested that  
5 water would be delivered to them, would it be  
6 delivered?

7 A. Maybe. It's actually up in the air  
8 because CDC doesn't deliver to homes. So we  
9 just found out that students are considered a  
10 home delivery account because they're not an  
11 office.

12 Q. I see.

13 A. They're not --

14 Q. What about students that don't live  
15 in -- I'm sorry.

16 MS. CALCAGNO: Could you read back  
17 what his answer was.

18 (Record read.)

19 A. They're not corporate accounts.  
20 They do only corporate delivery, office  
21 delivery.

22 Q. Okay. So CDC just itself chooses  
23 not to deliver to homes?

24 A. They only do commercial accounts.

25 Q. That's what they do?



1 M. M. Dushey

2 delivery. It's a service for students.

3 Q. Okay. Thank you.

4 MS. CALCAGNO: I'm just going to  
5 take a few-minute break, take about a ten-  
6 minute, fifteen-minute, ten-minute break  
7 and we'll go off record.

8 (Recess taken.)

9 BY MS. CALCAGNO:

10 Q. Okay. Marc, just a couple of  
11 questions. You mentioned earlier that you  
12 understood that there was a duty to police  
13 trademark owners. Do you remember that? Have  
14 you heard -- let me rephrase that.

15 Have you heard the phrase duty to  
16 police before?

17 A. No.

18 Q. Okay. Have you ever heard the  
19 phrase related goods?

20 A. Yes.

21 Q. Okay.

22 A. Maybe not in the context you're  
23 talking about, but...

24 Q. In the context of trademark law?

25 A. No.

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(Counsel confer.)

MS. CALCAGNO: Okay. No further  
questions.

THE WITNESS: Everybody good?

MS. CALCAGNO: We're good.

(The deposition is adjourned at  
4:45 p.m.)



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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

TYR Sport, Inc.	)	
	)	
Opposer	)	
	)	
	)	
v.	)	<b>Opposition No. 91197669 and 91197670</b>
	)	
	)	
Marc Dushey.	)	
	)	
Applicant	)	

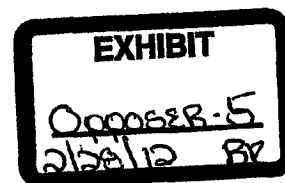
**TYR SPORT'S FIRST SET OF ADMISSION REQUESTS NOS. 1-66**

Pursuant to Rule 36 of the Federal Rules of Civil Procedure and Rule 2.120 of the Trademark Rules of Practice, Tyr Sport, Inc. (TYR Sport) requests that Marc Dushey, Inc. (Marc Dushey) serve upon TYR Sport sworn answers to the admission requests set forth below at the offices of Calcagno Law, 2300 M Street, N.W., Suite 800, Washington, D.C. 20037, within thirty (30) days after the service hereof. These admission requests are intended to be continuing in nature and any information or materials which may be discovered subsequent to the service and filing of the answers should be brought to the attention of TYR Sport through supplemental answers within a reasonable time following such discovery.

For the convenience of the Board and the Parties, TYR Sport's requests that each admission request (including subparts) be quoted in full immediately preceding the response.

**DEFINITIONS AND INSTRUCTIONS**

For purposes of these Requests for Admission, TYR Sport adopts the definitions and instructions set forth in TYR Sport's First set of Interrogatories.



## **ADMISSION REQUESTS**

### **REQUEST TO ADMIT NO. 1**

Admit that Exhibit A and B attached are true and accurate copies of web pages.

### **REQUEST TO ADMIT NO. 2**

Admit that Exhibit A attached is a true and accurate copy of a web page owned by Marc Dushey.

### **REQUEST TO ADMIT NO. 3**

Admit that Exhibit A attached is a true and accurate copy of a web page owned by Manhattan Water Company.

### **REQUEST TO ADMIT NO. 4**

Admit that Exhibit A attached is a true and accurate copy of a web page whose contents are under the control of Marc Dushey.

### **REQUEST TO ADMIT NO. 5**

Admit that Exhibit A attached is a true and accurate copy of a web page whose contents are under the control of Manhattan Water Company.

### **REQUEST TO ADMIT NO. 6**

Admit that Exhibit A is a true and accurate copy of a web page whose contents were authorized by Marc Dushey.

### **REQUEST TO ADMIT NO. 7**

Admit that Exhibit A is a true and accurate copy of a web page whose contents were authorized by Manhattan Water Company.

### **REQUEST TO ADMIT NO. 8**

Admit that Exhibit B attached is a true and accurate copy of a web page owned by Marc Dushey.



**REQUEST TO ADMIT NO. 9**

Admit that Exhibit B attached is a true and accurate copy of a web page owned by Manhattan Water Company.

**REQUEST TO ADMIT NO. 10**

Admit that Exhibit B attached is a true and accurate copy of a web page whose contents are under the control of Marc Dushey.

**REQUEST TO ADMIT NO. 11**

Admit that Exhibit B attached is a true and accurate copy of a web page whose contents are under the control of Manhattan Water Company.

**REQUEST TO ADMIT NO. 12**

Admit that Exhibit B is a true and accurate copy of a web page whose contents were authorized by Marc Dushey.

**REQUEST TO ADMIT NO. 13**

Admit that Exhibit B is a true and accurate copy of a web page whose contents were authorized by Manhattan Water Company.

**REQUEST TO ADMIT NO. 14**

Admit that Manhattan Water Company owns the domain name tyrwater.com.

**REQUEST TO ADMIT NO. 15**

Admit that Manhattan Water Company owns the domain name tyrnaturalsspringwater.com.

**REQUEST TO ADMIT NO. 16**

Admit that Marc Dushey advertised that he intended to "give our new 100% biodegradable water bottle out to all the amazing kids, volunteers sponsors, big brothers and sisters and thousands of other cool people" at the Race for the Kids.

**REQUEST TO ADMIT NO. 17**

Admit that Marc Dushey gave his "new 100% biodegradable water bottle out to".. "the amazing kids, volunteers sponsors, big brothers and sisters and thousands of other ... people" at the Race for the Kids.

**REQUEST TO ADMIT NO. 18**

Admit that TYR water bottles have been given out at races.

**REQUEST TO ADMIT NO. 19**

Admit that TYR water has been given out at races.

**REQUEST TO ADMIT NO. 20**

Admit that TYR brand water has been given out at races.

**REQUEST TO ADMIT NO. 21**

Admit that TYR brand water bottles have been given out at races.

**REQUEST TO ADMIT NO. 22**

Admit that TYR water bottles have been given out at athletic events.

**REQUEST TO ADMIT NO. 23**

Admit that TYR brand water bottles have been given out at athletic events.

**REQUEST TO ADMIT NO. 24**

Admit that TYR brand water has been given out athletic events.

**REQUEST TO ADMIT NO. 25**

Admit that TYR brand water bottles have been given out at charitable events.

**REQUEST TO ADMIT NO. 26**

Admit that TYR brand water has been given out at charitable events.

**REQUEST TO ADMIT NO. 27**

Admit that Marc Dushey owns the domain name tyrwater.com.

**REQUEST TO ADMIT NO. 28**

Admit that Marc Dushey owns the domain name tyrnaturalspringwater.com.

**REQUEST TO ADMIT NO. 29**

Admit that Marc Dushey either owns, controls or authorizes the content appearing at  
www.tyrwater.com.

**REQUEST TO ADMIT NO. 30**

Admit that Marc Dushey either own, controls or authorizes the content appearing at  
www.tyrnaturalspringwater.com.

**REQUEST TO ADMIT NO. 31**

Admit that Manhattan Water Company either owns, controls or authorizes the content  
appearing at www.tyrwater.com.

**REQUEST TO ADMIT NO. 32**

Admit that Manhattan Water Company either own, controls or authorizes the content  
appearing at www. tyrnaturalspringwater.com.

**REQUEST TO ADMIT NO. 33**

Admit that attached Exhibit C is a true and accurate copy of pages from the website  
appearing at www.tyrnaturalspringwater.com.

**REQUEST TO ADMIT NO. 34**

Admit that attached Exhibit D is a true and accurate copy of source code for one or more  
pages of www.tyrnaturalspringwater.com.

**REQUEST TO ADMIT NO. 35**

Admit that attached Exhibit E is a true and accurate copy of pages from the website  
appearing at www.tyrwater.com.

**REQUEST TO ADMIT NO. 36**

Admit that each page of attached Exhibit E contains a true and accurate depiction of one view of Marc Dushey's TYR brand water.

**REQUEST TO ADMIT NO. 37**

Admit that TYR water has been given out athletic events.

**REQUEST TO ADMIT NO. 38**

Admit the authenticity of each document and thing produced by Marc Dushey in response to Tyr Sport's First of Interrogatories and Requests for Production.

**REQUEST TO ADMIT NO. 39**

Admit that Marc Dushey offers, promotes, and/or sells its products under the Marc Dushey marks to the same class of consumers as the consumers to whom Tyr Sport offers its products and services under the TYR SPORT marks.

**REQUEST TO ADMIT NO. 40**

Admit that consumers selecting water under the Marc Dushey marks are not sophisticated purchasers as defined in the Du Pont factors.

**REQUEST TO ADMIT NO. 41**

Admit that consumers selecting Tyr Sport's water bottles are not sophisticated purchasers as defined in the Du Pont factors.

**REQUEST TO ADMIT NO. 42**

Admit that consumers selecting Tyr Sport's sports bags are not sophisticated purchasers as defined in the Du Pont factors.

**REQUEST TO ADMIT NO. 43**

Admit that the Opposer's pleaded marks and the Applicant's opposed marks are sufficiently similar that when used on related products they are likely to cause consumer confusion mistake or deception.

**REQUEST TO ADMIT NO. 44**

Admit that the dominant portion of the Opposer's pleaded marks and the Applicant's opposed marks is the term TYR.

**REQUEST TO ADMIT NO. 45**

Admit that the Opposer's products offered under the Tyr Sport marks and Applicant's products offered under the Marc Dushey marks travel through the same channels of trade.

**REQUEST TO ADMIT NO. 46**

Admit that Opposer's products offered under the Tyr Sport marks and Applicant's products offered under the Marc Dushey marks are related.

**REQUEST TO ADMIT NO. 47**

Admit that Opposer's products and services offered under the Tyr Sport marks and Applicant's products offered under the Marc Dushey marks are complementary.

**REQUEST TO ADMIT NO. 48**

Admit that Opposer's products offered under the Tyr Sport marks and Applicant's products offered under the Marc Dushey marks are competitive.

**REQUEST TO ADMIT NO. 49**

Admit that sports bags that have pouches designed to carry bottled water, and bottled water are complementary products.

**REQUEST TO ADMIT NO. 50**

Admit that plastic bottles for containing water, and water are complementary products.

**REQUEST TO ADMIT NO. 51**

Admit that plastic bottles for containing water, and water are competitive products.

**REQUEST TO ADMIT NO. 52**

Admit that in a TTAB opposition proceeding, the applicant's equitable defenses of estoppel and waiver run from the publication date of its mark for opposition.

**REQUEST TO ADMIT NO. 53**

Admit that Marc Dushey was aware of Tyr Sport prior to adopting the word mark TYR.

**REQUEST TO ADMIT NO. 54**

Admit that Marc Dushey was aware of Tyr Sport prior to adopting the design shown in Application Serial No. 85013113.

**REQUEST TO ADMIT NO. 55**

Admit that Marc Dushey was aware of Tyr Sport prior to using the design shown in Application Serial No. 85013113.

**REQUEST TO ADMIT NO. 56**

Admit that Marc Dushey was aware of Tyr Sport prior to filing the application to register the word mark TYR.

**REQUEST TO ADMIT NO. 57**

Admit that Marc Dushey was aware of Tyr Sport prior to filing the application to register the mark shown in Application Serial No. 85013113

**REQUEST TO ADMIT NO. 58**

Admit that Marc Dushey was aware of Tyr Sport prior to adopting any mark consisting of the word TYR or any variation thereof.

**REQUEST TO ADMIT NO. 59**

Admit that consumers pay one dollar or less for each bottle of TYR Water.

**REQUEST TO ADMIT NO. 60**

Admit that consumers pay two dollars or less for each bottle of TYR Water.

**REQUEST TO ADMIT NO. 61**

Admit that consumers pay three dollars or less for each bottle of TYR Water.

**REQUEST TO ADMIT NO. 62**

Admit that consumers pay four dollars or less for each bottle of TYR Water.

**REQUEST TO ADMIT NO. 63**

Admit that Marc Dushey sells each bottle of TYR Water to his customers for one dollar or less.

**REQUEST TO ADMIT NO. 64**

Admit that Marc Dushey sells each bottle of TYR Water to his customers for two dollars or less.

**REQUEST TO ADMIT NO. 65**

Admit that Marc Dushey sells each bottle of TYR Water to his customers for three dollars or less.

**REQUEST TO ADMIT NO. 66**

Admit that Marc Dushey sells each bottle of TYR Water to his customers for four dollars or less.

Respectfully submitted,

By: /Carla C. Calcagno/  
Calcagno Law  
2300 M Street, N.W.  
Suite 800  
Washington, D.C. 20037  
Telephone: (202) 973-2880

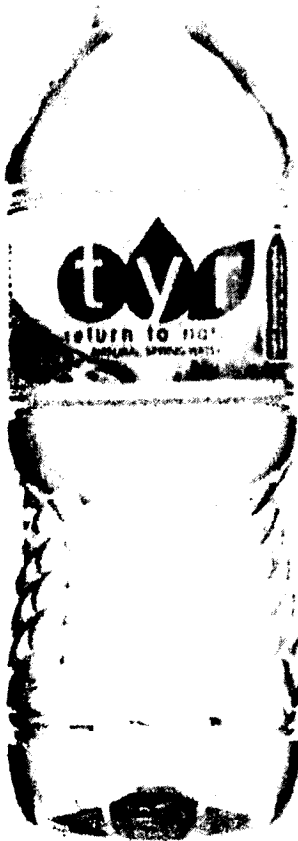
Donna Rubelmann, Esquire  
Rubelmann & Associates, PC  
501 Herondo Street Suite 45  
Hermosa Beach CA 90254

Attorneys for TYR Sport, Inc.

Dated: June 15, 2011



## EXHIBIT A

[HOME](#)[ECO BOTTLE](#)[WATER](#)[WHY TYR](#)[CONTACT](#)

## 100% Natural Spring Water

Deep underneath the great Adirondack mountains of Upstate New York is where every bottle of TYR is born. As it pushes upward to the surface through a deep underground aquifer it collects minerals and nutrients giving TYR its fresh spring water taste. When it surfaces high up in the Adirondack mountains where the winds blow strong and the cold clouds kiss the ground TYR is harvested and bottled immediately for perfection.

TYR Natural Spring Water meets and exceeds the highest water quality standards. Meeting government and NSF standards as well as keeping up to date with the latest bottling and water testing techniques.

The next time you buy a bottle of water think about where that bottle came from, the journey it took to reach you and where it's going when you're done with it. Just know that TYR brings you fresher water than any other brand you're about to buy. Bottled fresh and delivered immediately, guaranteed.

Other bottled waters that are shipped overseas and cross continents should only be used for emergency use not for designer bottled water. To drink a bottle of water from overseas only causes harm to the environment and you.

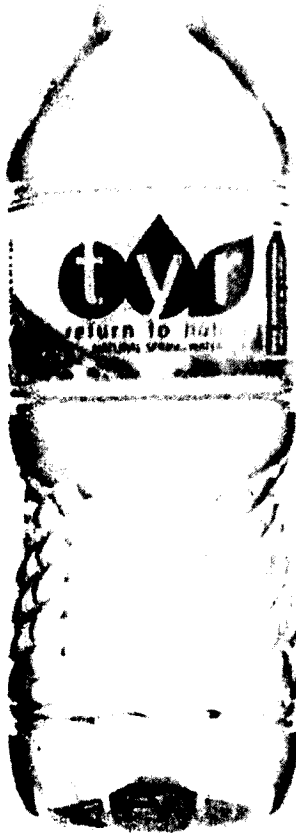
[Details](#) | [Sell TYR](#) | [Employment](#) | [Invest](#) | [TYR For Charity](#) | [Contact Us](#) | [Privacy](#) | [Legal](#) | ©2010 TYR Natural Spring Water

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## Why TYR?



Everyday millions of water bottles are consumed and discarded. These bottles are clogging landfills and causing harmful effects on eco systems around the globe. Some bottles are recycled but still end up as trash on the second go around and will outlive generations to come. It is a serious problem that needs serious attention. Bottled water is the most important beverage on store shelves and isn't going anywhere in the foreseeable future.

We need a bottle that can serve the water industry and be a good environmental steward. TYR brings just that, a bottle that doesn't take immense resources to produce, and a bottle that can Return To Nature as it originally came to be. TYR's Eco Bottle doesn't need special handling from composting facilities to Return To Nature. The environment itself is all TYR needs.

As for our label it is constructed from a 100% post consumer recycled paper with a toned down look that uses less ink and no hazardous coatings. This label will Return To Nature the same as our bottle.

When you drink a bottle of TYR not only are you getting better water than you currently drink but your taking a plastic bottle out of circulation. DRINK TYR DRINK RESPONSIBLY.

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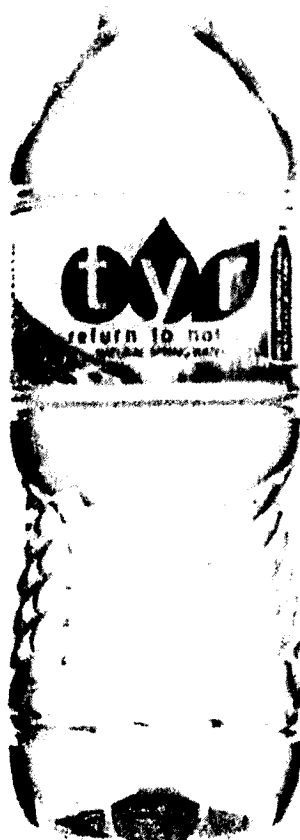
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## Thank You For Visiting

Whether you are browsing the TYR site for the first time or your a regular here, we want to be able to provide you with any information, feedback or service that you need.

**Home/Office Delivery:**

Tel.:

Fax.: 1-(646)-330-5920

hod@TYRwater.com

**Sales/Marketing:**

Tel.:

Fax.: 1-(646)-330-5920

sales@TYRwater.com

**Customer Service:**

Tel.:

Fax.: 1-(646)-330-5920

service@TYRwater.com

Company:

Name:

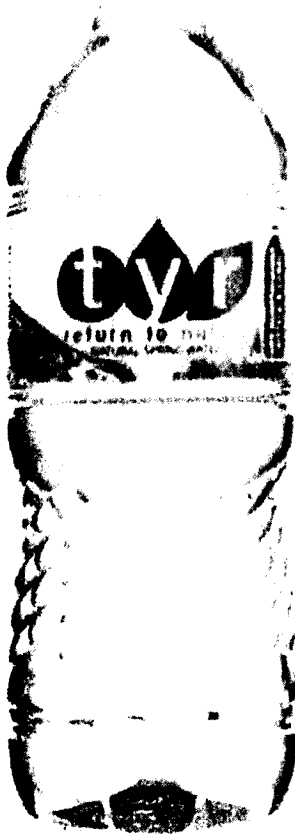
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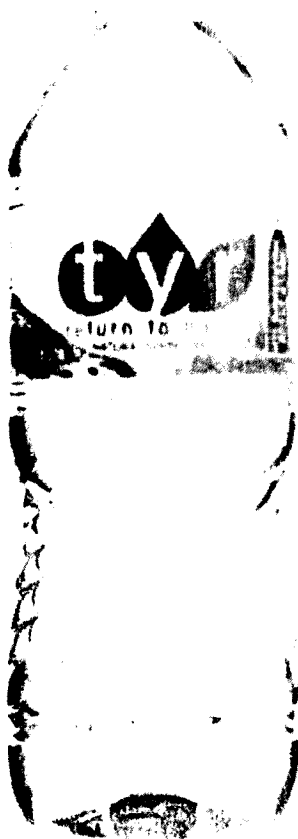
Every month TYR chooses a cause that we feel will make an impact on our lives. **September 25, 2010 at Riverside Park on 72nd St, NY, NY**, TYR will be donating and participating to one of New York's oldest and most beneficial causes, The Big Brothers Big Sister of New York "Race For The Kids" . A **4k run/walk and Picnic**. What they do is strengthen the hearts and soles of kids in New York by pairing those kids with a big brother or big sister. Come join TYR at the **"Race For The Kids"** as we give our new 100% biodegradable water bottle out to all the amazing kids, volunteers sponsors, big brothers and sisters and thousands of other cool people. Click the link below to get all the details and well I guess i'll see you soon.

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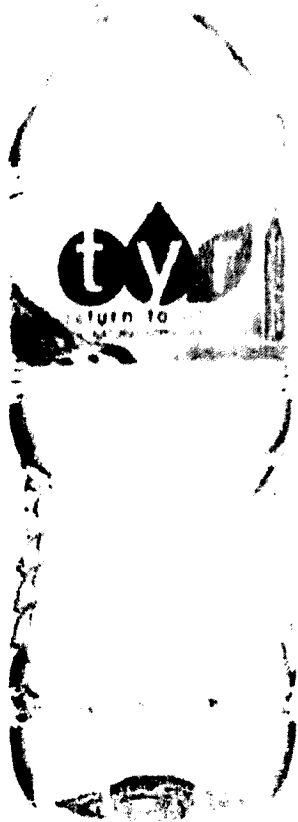
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The next time you buy a bottle of water think about where that bottle came from, the journey it took to reach you and where it's going when you're done with it. Just know that TYR brings you fresher water than any other brand you're about to buy. Bottled fresh and delivered immediately, guaranteed.

Other bottled waters that are shipped overseas and cross continents should only be used for emergency use not for designer bottled water. To drink a bottle of water from overseas only causes harm to the environment and you.



## **EXHIBIT B**

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## **EXHIBIT C**

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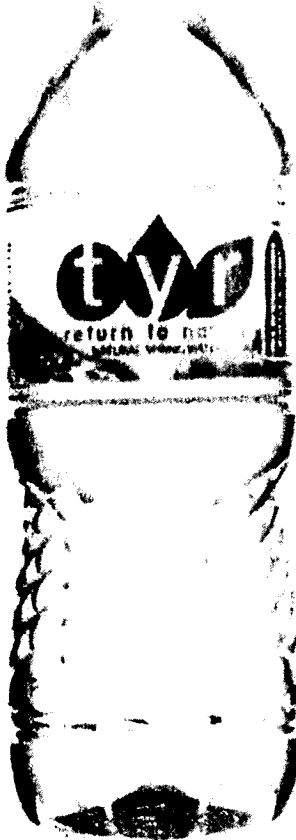


return to nature

**100% Eco Friendly**  
**100% Biodegradable**  
**100% Natural Spring Water**

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## Eco Bottle



For every bottle of TYR that you drink you are taking an action in helping our environment. Our bottle is the only bottle that will actually break down and Return To Nature on its own.

The TYR Eco Bottle is made with a patented blend of natural organic material that allow bacteria found in landfills, oceans and other environments to break our bottles down naturally. Once your bottle is discarded bacteria immediately sense this organic material as food and colonize the bottle. As the bacteria eat and break our bottles down they pass it (they go number 2) as an enriched soil serving as fertile earth. This process occurs over a 5-15 year period without help from composting facilities or any other additional handling or infrastructure.

If our bottles end up in a recycling situation that is fine too. Our bottles do not harm the integrity of recycled plastic streams. Plastic clogs our landfills, rivers and oceans as well as litter our environment. Regular plastic, less plastic and recycled plastic stay with us for thousands of years. The bottle of water you drank ten years ago is still here and will outlive you, your kids, their kids and on and on. Make a change by drinking TYR and Return To Nature.

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We need a bottle that can serve the water industry and be a good environmental steward. TYR brings just that, a bottle that doesn't take immense resources to produce, and a bottle that can Return To Nature as it originally came to be. TYR's Eco Bottle doesn't need special handling from composting facilities to Return To Nature. The environment itself is all TYR needs.

As for our label it is constructed from a 100% post consumer recycled paper with a toned down look that uses less ink and no hazardous coatings. This label will Return To Nature the same as our bottle.

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hod@TYRwater.com

**Sales/Marketing:**

Tel.:

Fax.: 1-(646)-330-5920

sales@TYRwater.com

**Customer Service:**

Tel.:

Fax.: 1-(646)-330-5920

service@TYRwater.com

Company:

Name:

E-mail:

Message:


## **EXHIBIT D**

```

<!DOCTYPE html PUBLIC "-//W3C//DTD XHTML 1.0 Transitional//EN"
"http://www.w3.org/TR/xhtml1/DTD/xhtml1-transitional.dtd">
<html xmlns="http://www.w3.org/1999/xhtml">
<head>
<meta http-equiv="Content-Type" content="text/html; charset=utf-8" />
<meta property="fb:page_id" content="141314972548921" />
<meta name="description" content="TYR Natural Spring Water home page, TYR Natural
Spring Water is 100% natural spring water bottled in a 100% biodegradable bottle"/>
<meta name="keywords" content="tyr, tyr water bottle, biodegradable, eco friendly,
natural spring water, biodegradable water bottle, ny delivery, water delivery, home
water delivery, office water delivery, water coolers, spring water, distilled water,
water filtration, poland springs, ds waters, renewal water, recyclable water bottles"/>
<Link REL="BOOKMARK ICON" TYPE="image/x-icon"
HREF="http://www.tyrnaturalspringwater.com/favicon.ico">
<Link REL="BOOKMARK ICON" TYPE="image/x-icon"
HREF="http://www.tyrwater.com/favicon.ico">
<Link REL="SHORTCUT ICON" TYPE="image/x-icon"
HREF="http://www.tyrnaturalspringwater.com/favicon.ico">
<Link REL="SHORTCUT ICON" TYPE="image/x-icon"
HREF="http://www.tyrwater.com/favicon.ico">

<title>TYR NATURAL SPRING WATER | 100% BIODEGRADABLE</title>
<style type="text/css">
<!--
body {
    font: 100% Verdana, Arial, Helvetica, sans-serif;
    background: #666666;
    margin: 0; /* it's good practice to zero the margin and padding of the body
element to account for differing browser defaults */
    padding: 0;
    text-align: center; /* this centers the container in IE 5* browsers. The text is
then set to the left aligned default in the #container selector */
    color: #000000;
    background-image: url(_image/strechGrass.jpg);
    background-repeat: repeat;
    background-color: #FFF;
}
.twoColFixLtHdr #container {
    width: 780px;
    text-align: left; /* this overrides the text-align: center on the body element.
*/
    height: auto;
    margin-top: 0;
    margin-right: auto;
    margin-bottom: 0;
    margin-left: auto;
    color: #FFF;
}
.twoColFixLtHdr #header {
    height: 50px;
    background-color: #FFF;
    margin: 10px;
    padding: 0;
}
.twoColFixLtHdr #header h1 {
    margin: 0; /* zeroing the margin of the last element in the #header div will
avoid margin collapse - an unexplainable space between divs. If the div has a border

```



```

around it, this is not necessary as that also avoids the margin collapse */
padding: 10px 0; /* using padding instead of margin will allow you to keep the
element away from the edges of the div */
}
.twoColFixLtHdr #sidebar1 {
float: left; /* since this element is floated, a width must be given */
width: 200px;
padding-top: 0px;
padding-right: 10px;
padding-bottom: 0px;
}
.twoColFixLtHdr #mainContent {
height: 500px;
margin-top: 0;
margin-right: 0;
margin-bottom: 0;
margin-left: 20px;
padding-top: 20px;
padding-right: 10px;
padding-bottom: 0;
padding-left: 10px;
text-align: center;
top: 0px;
bottom: 0px;
color: #FFF;
background-attachment: scroll;
background-repeat: no-repeat;
background-position: center top;
}
.twoColFixLtHdr #container #mainContent h1 {
color: #0F0;
text-align: center;
}
.twoColFixLtHdr #container #mainContent p {
color: #666;
text-align: left;
font-family: Verdana, Geneva, sans-serif;
font-size: 14px;
}
.twoColFixLtHdr #footer {
padding-top: 0;
padding-right: 0px;
padding-bottom: 0;
padding-left: 0px;
clear: both;
margin-top: 15px;
}
.twoColFixLtHdr #footer p {
font-size: 12px;
text-align: left;
float: none;
padding-top: 10px;
padding-right: 5px;
padding-bottom: 10px;
padding-left: 5px;
text-decoration: none;
color: #666;

```

```

        margin-top: 30px;
        margin-right: 0;
        margin-bottom: 0;
        margin-left: 0;
        font-family: Verdana, Geneva, sans-serif;
        font-weight: lighter;
    }
    .fltrt { /* this class can be used to float an element right in your page. The floated
element must precede the element it should be next to on the page. */
        float: right;
        margin-left: 8px;
    }
    .fltlft { /* this class can be used to float an element left in your page */
        float: left;
        margin-right: 8px;
    }
    .clearfloat { /* this class should be placed on a div or break element and should be
the final element before the close of a container that should fully contain a float */
        clear: both;
        height: 0;
        font-size: 1px;
        line-height: 0px;
    }
    .colorBlue { color: #0078C1;
    }
    .colorGreen {color: #7AC143;
    }
    #footer #addThis {
        width: 780px;
        margin-right: auto;
        margin-left: auto;
    }
    #footer #addThis .addthis_toolbox.addthis_default_style {
        float: right;
        position: relative;
        right: 10px;
    }
    .twoColFixLtHdr #container #footer #addThis {
        float: none;
        right: 0px;
    }
    .colorLblue {color: #84D1E1;
    }
    -->
</style><!--[if IE 5]>
<style type="text/css">
/* place css box model fixes for IE 5* in this conditional comment */
.twoColFixLtHdr #sidebar1 { width: 230px; }
</style>
<![endif]--><!--[if IE]>
<style type="text/css">
/* place css fixes for all versions of IE in this conditional comment */
.twoColFixLtHdr #sidebar1 { padding-top: 30px; }
.twoColFixLtHdr #mainContent { zoom: 1; }
/* the above proprietary zoom property gives IE the hasLayout it needs to avoid several
bugs */
</style>

```

```

<![endif]-->
<script src="SpryAssets/SpryMenuBar.js" type="text/javascript"></script>
<link href="SpryAssets/SpryMenuBarHorizontal.css" rel="stylesheet" type="text/css" />
<style type="text/css">
<!--
a:link {
    text-decoration: none;
    color: #666;
}
a:visited {
    text-decoration: none;
    color: #666;
}
a:hover {
    text-decoration: none;
    color: #666;
}
a:active {
    text-decoration: none;
    color: #666;
}
-->
</style>
<link href="style 9698.css" rel="stylesheet" type="text/css" />
<!-- google analytics begining --><script type="text/javascript">

    var _gaq = _gaq || [];
    _gaq.push(['_setAccount', 'UA-18067943-1']);
    _gaq.push(['_trackPageview']);

    (function() {
        var ga = document.createElement('script'); ga.type = 'text/javascript'; ga.async =
true;
        ga.src = ('https:' == document.location.protocol ? 'https://ssl' : 'http://www') +
'.google-analytics.com/ga.js';
        var s = document.getElementsByTagName('script')[0]; s.parentNode.insertBefore(ga,
s);
    })();

</script><!-- google analytics ending --></head>

<body class="twoColFixLtHdr">
<div id="container">
    <div id="header">
        <ul id="MenuBar1" class="MenuBarHorizontal">
            <li><a href="index.html">HOME</a> </li>
            <li><a href="ecoBottle.html">ECO BOTTLE</a></li>
            <li><a href="water.html">WATER</a></li>
            <li><a href="whTyr.html">WHY TYR</a></li>
            <li><a href="contact.html">CONTACT</a></li>
        </ul>
    <!-- end #header --></div>
    <div id="sidebar1">
        <!-- end #sidebar1 -->
         </div>
    <div id="mainContent">
        <h1><br />

```

```

        <br />
        <span class="colorGreen">100% Eco Friendly</span><br />
        <span class="colorLblue">100% Biodegradable</span><br />
        <span class="colorBlue">100% Natural Spring Water</span></h1>
    </div>
    <div id="footer">
        <p><a href="details/index.htm">Details</a> | <a href="Coming Soon Page/index2.html">
Sell TYR</a> | <a href="Coming Soon Page/index2.html">Employment</a> | <a href="Coming
Soon Page/index2.html">Invest</a> | <a href="tyrForCharity.html">TYR For Charity</a> |
<a href="contact.html">Contact Us</a> | <a href="Coming Soon Page/index2.html">Privacy
</a> | <a href="Coming Soon Page/index2.html">Legal</a> | &copy;2010 TYR Natural Spring
Water</p>
    <div id="addThis"><div class="addthis_toolbox addthis_default_style">
        <a class="addthis_button_facebook"></a>
        <a ></a>
        <a class="addthis_button_twitter"></a>
        <a class="addthis_button_stumbleupon"></a>
        <a class="addthis_button_digg"></a>
        <a class="addthis_button_googlebuzz"></a>
        <a class="addthis_button_email"></a>
        <a class="addthis_button_facebook_like"></a>
    </div> </div>
<!-- end #footer --></div>
<!-- end #container --></div>

<script type="text/javascript">
<!--
var MenuBar1 = new Spry.Widget.MenuBar("MenuBar1",
{imgDown:"SpryAssets/SpryMenuBarDownHover.gif",
imgRight:"SpryAssets/SpryMenuBarRightHover.gif"});
//-->
</script>
<script type="text/javascript"
src="http://s7.addthis.com/js/250/addthis_widget.js#username=marcdushey"></script>
<script src="//ah8.facebook.com/js/conversions/tracking.js"></script><script
type="text/javascript">
try {
    FB.Insights.impression({
        'id' : 6003042150020,
        'h' : '7181e8b38b'
    });
} catch (e) {}
</script>
</body>
</html>

```

## **EXHIBIT E**

[HOME](#)

[ECO BOTTLE](#)

[WATER](#)

[WHY TYR](#)

[CONTACT](#)



return to nature

**100% Eco Friendly**  
**100% Biodegradable**  
**100% Natural Spring Water**

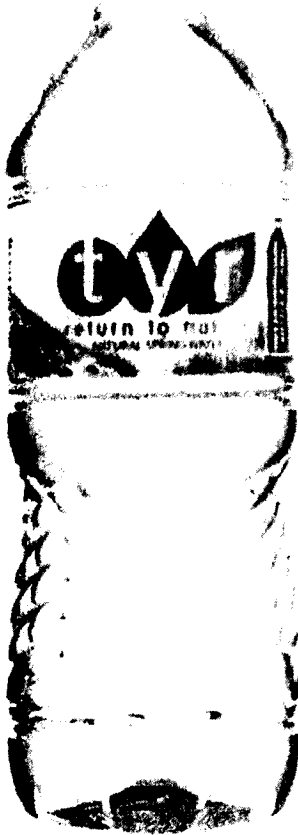
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## Eco Bottle



For every bottle of TYR that you drink you are taking an action in helping our environment. Our bottle is the only bottle that will actually break down and Return To Nature on its own.

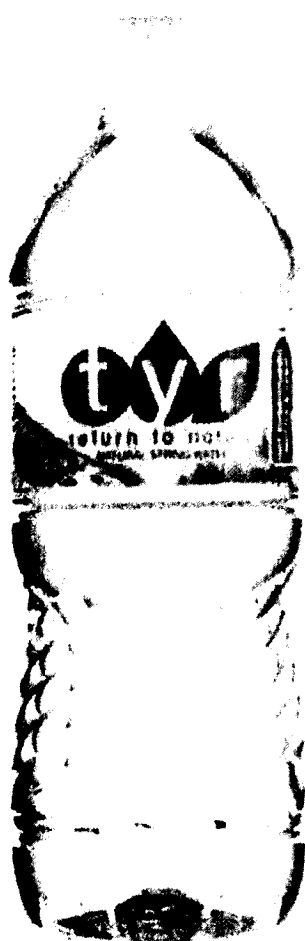
The TYR Eco Bottle is made with a patented blend of natural organic material that allow bacteria found in landfills, oceans and other environments to break our bottles down naturally. Once your bottle is discarded bacteria immediately sense this organic material as food and colonize the bottle. As the bacteria eat and break our bottles down they pass it (they go number 2) as an enriched soil serving as fertile earth. This process occurs over a 5-15 year period without help from composting facilities or any other additional handling or infrastructure.

If our bottles end up in a recycling situation that is fine too. Our bottles do not harm the integrity of recycled plastic streams. Plastic clogs our landfills, rivers and oceans as well as litter our environment. Regular plastic, less plastic and recycled plastic stay with us for thousands of years. The bottle of water you drank ten years ago is still here and will outlive you, your kids, their kids and on and on. Make a change by drinking TYR and Return To Nature.

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## 100% Natural Spring Water

Deep underneath the great Adirondack mountains of Upstate New York is where every bottle of TYR is born. As it pushes upward to the surface through a deep underground aquifer it collects minerals and nutrients giving TYR its fresh spring water taste. When it surfaces high up in the Adirondack mountains where the winds blow strong and the cold clouds kiss the ground TYR is harvested and bottled immediately for perfection.

TYR Natural Spring Water meets and exceeds the highest water quality standards. Meeting government and NSF standards as well as keeping up to date with the latest bottling and water testing techniques.

The next time you buy a bottle of water think about where that bottle came from, the journey it took to reach you and where it's going when you're done with it. Just know that TYR brings you fresher water than any other brand you're about to buy. Bottled fresh and delivered immediately, guaranteed.

Other bottled waters that are shipped overseas and cross continents should only be used for emergency use not for designer bottled water. To drink a bottle of water from overseas only causes harm to the environment and you.





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## Why TYR?

Everyday millions of water bottles are consumed and discarded. These bottles are clogging landfills and causing harmful effects on eco systems around the globe. Some bottles are recycled but still end up as trash on the second go around and will outlive generations to come. It is a serious problem that needs serious attention. Bottled water is the most important beverage on store shelves and isn't going anywhere in the foreseeable future.

We need a bottle that can serve the water industry and be a good environmental steward. TYR brings just that, a bottle that doesn't take immense resources to produce, and a bottle that can Return To Nature as it originally came to be. TYR's Eco Bottle doesn't need special handling from composting facilities to Return To Nature. The environment itself is all TYR needs.

As for our label it is constructed from a 100% post consumer recycled paper with a toned down look that uses less ink and no hazardous coatings. This label will Return To Nature the same as our bottle.

When you drink a bottle of TYR not only are you getting better water than you currently drink but your taking a plastic bottle out of circulation. DRINK TYR DRINK RESPONSIBLY.

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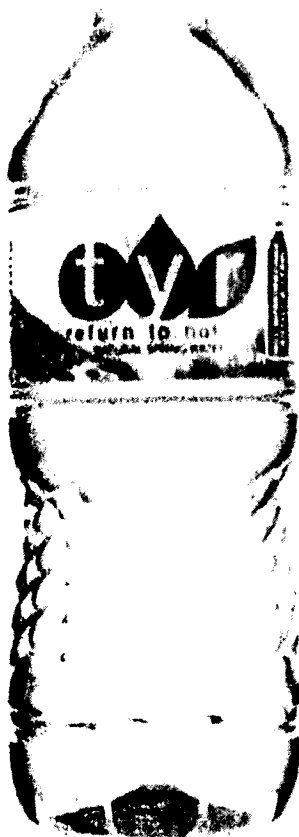
Like



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## Thank You For Visiting

Whether you are browsing the TYR site for the first time or your a regular here, we want to be able to provide you with any information, feedback or service that you need.

**Home/Office Delivery:**

Tel.:

Fax.: 1-(646)-330-5920

hod@TYRwater.com

**Sales/Marketing:**

Tel.:

Fax.: 1-(646)-330-5920

sales@TYRwater.com

**Customer Service:**

Tel.:

Fax.: 1-(646)-330-5920

service@TYRwater.com

Company:

Name:

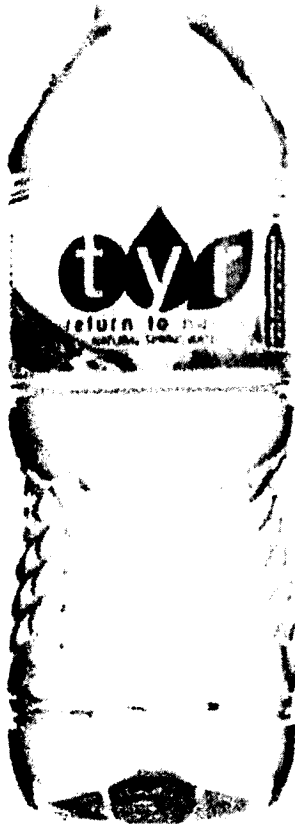
E-mail:

Message:

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Every month TYR chooses a cause that we feel will make an impact on our lives. **September 25, 2010 at Riverside Park on 72nd St, NY, NY**, TYR will be donating and participating to one of New York's oldest and most beneficial causes, The Big Brothers Big Sister of New York "Race For The Kids". A 4k run/walk and Picnic. What they do is strengthen the hearts and soles of kids in New York by pairing those kids with a big brother or big sister. Come join TYR at the "Race For The Kids" as we give our new 100% biodegradable water bottle out to all the amazing kids, volunteers sponsors, big brothers and sisters and thousands of other cool people. Click the link below to get all the details and well I guess i'll see you soon.

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